

State of Colorado



Colorado Department of State Elections Division Request for Proposals (RFP)

CDOS-RFP-2005-001

**In Accordance with Colorado Revised Statutes [§ 24-103-203] and
Colorado Procurement Rule [R-24-103-203-01 (f)]**

The Colorado Department of State issues this RFP for

Election Voting Systems

October 3, 2005

Table of Contents

1. INTRODUCTION	1
1.1 Purpose of Request for Proposals (RFP)	1
1.2 Issuing Office	1
1.3 RFP Goals	1
1.4 RFP Approach	1
1.5 Procurement Schedule	2
1.6 Reservation of Right to Manage RFP	2
2. ADMINISTRATIVE INFORMATION	3
2.1 Official Means of Communication	3
2.2 Statement of Purpose	3
2.3 Scope of RFP	3
2.4 Mandatory Pre-Proposal Conference	4
2.5 Modification or Withdrawal of Proposals	4
2.6 Proposal Submission	4
2.7 Addendum or Supplement to RFP	5
2.8 Oral Presentations and Demonstrations	5
2.9 Acceptance of RFP Terms	5
2.10 Confidential and Proprietary Information	5
2.11 RFP Response Material Ownership	5
2.12 Agreement Type	5
2.13 Proposal Prices	6
2.14 Subcontractors	6
2.15 Resident Bidder	6
2.16 Bid Clarification and Vendor Guarantee	6
2.17 Bid Opening	7
2.18 Selection of Proposal	7
2.19 Award of Contract	7
2.20 Acceptance of Proposal Content	7
2.21 RFP Cancellation	7
2.22 Incurring Costs	7

2.23	Non-Discrimination	8
2.24	Rejection of Proposal	8
2.25	Parent Company	8
2.26	Press Releases	8
2.27	Contract Cancellation	8
2.28	Certification of Independent Price	8
2.28.1	Certification	8
2.28.2	Individual Certification	8
2.28.3	Proposal Not Considered For Award Conditions	9
2.29	Taxes	9
2.30	Assignment and Delegation	9
2.31	Availability of Funds	9
2.32	Insurance	9
2.32.1	Insurance Coverage	9
2.32.2	Additional Insured	10
2.32.3	Cancellation Prevention	10
2.32.4	Insurance Documentation	10
2.32	Independent Contractor Clause	10
2.33	Choice of Law and Venue	10
2.34	Special Provisions	10
2.34.1	Controller's Approval	10
2.34.2	Indemnification	11
2.34.3	Discrimination and Affirmative Action	11
2.34.4	Colorado Labor Preference	12
2.34.5	General	12
2.34.6	Certifications	13
3.	Vendor's Response Format	13
3.1	Page Limits	13
3.2	State of Colorado RFP Signature Page	14
3.3	Transmittal Letter	14
3.4	Other Solicitations and Potential Conflicts	14
3.5	References	14
3.6	Business Proposal	15
3.6.1	Executive Summary	15
3.6.2	Company Overview	15
3.6.3	Relevant Business Experience	16
3.6.4	Project Management Schedule	17
3.6.5	Project Organization and Preliminary Project Plan	18
3.6.6	Proposed Staffing	18
3.6.7	Financial Status	19

3.6.8	Cost Proposal	19
4	Proposal Evaluation	19
4.1	Introduction	19
4.2	Evaluation Process	20
4.3	Evaluation Procedure	21
4.4	Notice of Intent to Award	22
5.	Requirements	22
5.1	Certification	22
5.2	Legal Requirements	23
5.3	Accessibility	23
5.4	Election Management System	23
5.5	Colorado Voting System Requirements	25
5.6	Services & Training	28
5.7	Training	30
5.8	Security Requirements	32
5.9	Systems Administration and Warranty	34
5.10	Escrow	36
6.	Appendices	37
A.	State of Colorado RFP Cover Sheet	37
B.	Clarification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions	37
C.	Certification of Compliance with the Requirements of the Federal Drug-Free Workplace Act of 1988	37
D.	Certification Regarding Lobbying	37
E.	Tobacco Free Certification	37
F.	Election Rule 45 – Voting System Certification Standards	37
G.	Colorado Voting Systems Inventory by County	37
H.	Colorado County Seat Map	37
I.	Colorado County Election Statistics for 2004	37
J.	Preferred Vendor Contract Terms and Conditions	37
K.	Vendor Proposal Pricing Tables	37
	TABLE “A”	1
	TABLE “B”	9

1. INTRODUCTION

1.1 Purpose of Request for Proposals (RFP)

The State of Colorado, hereinafter referred to as **State**, is soliciting competitive proposals for Help America Vote Act (HAVA) and State compliant voting systems for operation in up to 64 Colorado counties. The solutions chosen for use in Colorado counties will include voting devices, election ballot layout software, vote tabulation software, installation services, training, and support services. It is the intent of this RFP process to result in the selection of one preferred voting system vendor, hereinafter referred to as **Preferred Vendor**.

1.2 Issuing Office

The Colorado Department of State, hereinafter referred to as **CDOS**, issues this RFP on behalf of the State. The mission of the CDOS is to serve the public by performing constitutional and statutory duties of collecting, securing, and communicating information, ensuring the integrity of elections, and enhancing commerce. The CDOS will designate within this RFP a person within the CDOS Elections Division as point of contact, hereinafter referred to as **State Contact**, for the procurement process. During the time between the proposal opening and contract award, any contact, other than written questions from voting system vendors concerning this RFP, will be initiated by the State Contact.

The general responsibility of the CDOS Elections Division is to oversee the uniform application of the Colorado Election Code in conjunction with 64 County Clerk and Records and other State agencies. The Elections Division arranges and certifies the primary and general election ballots for the State. In addition to supervising elections, the Elections Division also maintains voter registration files, registers lobbyists, administers Campaign Finance Laws, and is the filing office for conflicts of interest and oaths of office.

1.3 RFP Goals

The goals of this RFP are:

1. To select a **Preferred Vendor** for which the CDOS Elections Division will provide election setup and tabulation software support to counties that choose to purchase the Preferred Vendor's system;
2. To purchase and maintain training, support, upgrades, hardware and software from the Preferred Vendor for use by the CDOS Elections Division to achieve goal 1.
3. To establish documented pricing for voting system vendor products and services that may be utilized by Colorado election officials during their voting system procurement efforts from the Preferred Vendor; and
4. To allow for existing methods of procuring voting systems by County election officials to exist independent of the Preferred Vendor models.

1.4 RFP Approach

HAVA legislation requires many of Colorado's counties to purchase new voting systems for use in the 2006 federal elections. Many of these counties currently utilize paper ballots that are manually counted or counted by a central scan device. Some of these central scan devices are not compatible with current voting system software and may need to be replaced.

Due to the requirements of HAVA and Colorado legislation, the CDOS Elections Division has developed an approach that will provide CDOS support to county election offices. The most significant CDOS support will be available to counties that procure their voting system from the Preferred Vendor selected

as a result of this RFP. Counties utilizing the Preferred Vendor's voting system may request election setup and tabulation software support from the CDOS Elections Division.

Counties whose active registered voter counts are less than 30,000 as of the date of the contract generated through this RFP may be eligible to receive setup and tabulation support from CDOS. Counties whose active registered voter counts are greater than 30,000 shall be capable of purchasing the voting equipment through the RFP but will be required to conduct the setup and tabulation software without the use of CDOS support.

The CDOS understands that some voting system vendors are awaiting certification from the NASED/EAC and/or the State of Colorado. A vendor that meets the requirements of this RFP other than possessing Colorado certification may be selected as a **Conditionally Qualified Vendor**. Such a vendor will be eligible to do business with Colorado county election officials once they receive their Colorado certification. Understanding that time is of the essence, many counties may not be willing to postpone their procurement activities to wait for a Conditionally Qualified Vendor to become qualified.

1.5 Procurement Schedule

Projected key dates for this RFP are:

DATE	ACTIVITY
10/03/2005	RFP issued and posted on CDOS website
10/10/2005	Mandatory Pre-Proposal Conference
10/17/2005	Prospective vendors written inquiry deadline
10/21/2005	Answers to inquiries posted on CDOS website
11/4/2005	Proposal submission deadline at 2:00pm
11/18 to 11/23/2005	Vendor oral presentations and demonstrations
12/02/2005	Award(s) announced (estimated)
12/26/2005	Conclusion of contract negotiation
12/27/2005	Start date for counties to purchase voting systems
1/13/2006	Completion of CDOS training on system

1.6 Reservation of Right to Manage RFP

Among other rights in this RFP, the CDOS reserves the right, at its sole discretion:

1. To amend this RFP in any way that suits the legal and business requirements of the State;
2. To extend the deadline for submitting proposals;
3. To decide whether a proposal does or does not substantially comply with the requirements of this RFP;
4. To waive any minor irregularity, informality, or nonconformance with this RFP;
5. To obtain and/or provide references to other public agencies, organizations, and individuals, upon request, regarding a vendor's contract performance;
6. At any time prior to contract execution, to reject any proposal that fails to substantially comply with all prescribed RFP procedures and requirements or to reject all proposals received and cancel this effort;

7. To accept entire responses or portions of responses from one vendor or multiple vendors;
8. To not completely review, investigate the references or qualifications of those who submit such proposals, or analyze proposals of bidders where the CDOS determines, in good faith, the proposal is on its face non-responsive to any requirement or obligation of the RFP;
9. To return proposals, unopened, received after the deadline specified in the RFP Procurement Schedule; and
10. To use information submitted in response to this document in any manner it may deem appropriate in evaluating the fitness of the solutions proposed, the capability of vendors to perform and deliver the goods and services requested in this RFP, and the financial stability of the vendors and all subcontractors.

2. ADMINISTRATIVE INFORMATION

2.1 Official Means of Communication

During the solicitation process for this RFP, all official communication from the CDOS to vendors will be through postings on the CDOS website (www.sos.state.co.us/elections/). The CDOS will post notices that will include, but not be limited to, modifications to administrative or performance requirements, answers to written inquiries received, clarifications to requirements, and the announcement of the apparent winning vendors. It is incumbent upon vendors to monitor the CDOS website carefully and regularly for any such postings.

Communications from vendors to the CDOS regarding this RFP must be in the form of written questions and directed to the State Contact at:

Colorado Department of State
Elections Division
Attn: John Gardner
1700 Broadway, Suite 270
Denver, CO 80290

OR, emailed to:

voting.systems@sos.state.co.us

With email subject line of: **CDOS-RFP-2005-001 Vendor Questions**

There is an explicit prohibition against vendor contact with State or county officers and officials about the terms, conditions, or content of this RFP, other than through the State Contact. Violation of this prohibition shall result in disqualification of a vendor from the competitive selection process.

2.2 Statement of Purpose

This RFP provides prospective vendors with sufficient information to enable them to prepare and submit proposals for consideration by the CDOS to achieve the goals of this RFP.

2.3 Scope of RFP

This RFP contains instructions governing the proposal to be submitted and identifies material to be included therein; sets forth mandatory requirements that shall be met for the vendor to be eligible for consideration; and specifies other optional requirements to be met by each vendor.

2.4 Mandatory Pre-Proposal Conference

A mandatory Pre-Proposal Conference will be held on the date listed in the Procurement Schedule. All vendors shall attend the entire conference and sign in and out on the attendance list provided at the conference to be eligible for award. A limit of two (2) individuals per vendor may attend this conference. Only those vendors who attend the **entire** pre-proposal conference will be allowed to submit a proposal. Vendors are required to be on time. Vendors who are not on time may not be allowed to attend the meeting. The specific time and location of the Pre-Proposal Conference will be communicated through the CDOS website as indicated in section 2.1 of this document.

2.5 Modification or Withdrawal of Proposals

Proposals may be modified or withdrawn by the vendor prior to the established Proposal Submission Deadline and time.

2.6 Proposal Submission

Proposals shall be received on or before the date and time indicated in Section 1.5, Procurement Schedule. Late proposals will not be accepted. It is the responsibility of the vendor to ensure that the CDOS receives the proposal on or before the proposal submission deadline date and time. Vendors mailing their proposals shall allow sufficient mail delivery time to ensure receipt of their proposals by the deadline specified. The proposal package shall be delivered or sent by mail to:

Colorado Department of State
Elections Division
Attn: John Gardner
1700 Broadway, Suite 270
Denver, CO 80290

An officer of the vendor, legally authorized to bind the vendor to their proposal, must sign the State of Colorado Request For Proposal Cover Sheet (**Appendix A**). The signed cover sheet is to be included with the proposal copy that is marked ORIGINAL. The proposal cover sheet can be found on the CDOS website along with this RFP.

The proposal package will contain one (1) original proposal, and eight (8) copies clearly marked as indicated in Section 3.

Proposals, which are determined to be at a variance with this requirement, may not be accepted.

Faxed or emailed proposals will not be accepted.

Proposals shall be submitted in a sealed package. The outer envelope of the package must show the following information:

<VENDOR'S NAME>

RFP NUMBER: CDOS-RFP-2005-001

<PROPOSAL DUE DATE AND TIME>

The CDOS desires and encourages proposals to be submitted electronically on CD Based media formatted for use on Microsoft Windows Based PC's. Proposals that are submitted in electronic format need only submit one single copy. Vendors submitting hard copies are encouraged to use recycled paper, printed on both sides. While the appearance of proposals and professional presentation is important, the use of non-recyclable or non-recycled glossy paper is discouraged.

2.7 Addendum or Supplement to RFP

The CDOS reserves the right to make changes to this RFP and its Appendices at any time during the procurement process prior to an award. Such changes will be implemented through the posting on the CDOS website of an addendum (or addenda) to this RFP. It is the responsibility of the vendor to monitor the CDOS website for changes to this solicitation.

2.8 Oral Presentations and Demonstrations

Oral Presentations will be required for the top scoring proposals. The date and location of the presentations will be communicated directly to the vendor by means of the point of contact indicated in the submitted proposal.

2.9 Acceptance of RFP Terms

A proposal submitted in response to this RFP shall constitute a binding offer. The autographic signature of an officer of the vendor legally authorized to execute contractual obligations shall indicate acknowledgment of this condition. A submission in response to this RFP acknowledges acceptance by the vendor of all terms and conditions including compensation, as set forth herein. A vendor shall identify clearly and thoroughly any variations between its proposal and this RFP. Failure to do so shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP.

2.10 Confidential and Proprietary Information

Any restrictions of the use or inspection of material contained within a vendor's proposal shall be clearly stated in the proposal itself. Written requests for confidentiality shall be submitted with the vendor's proposal. The vendor shall state specifically what elements of the proposal are to be considered confidential or proprietary.

Confidential or proprietary information shall be readily identified, marked and separated from the rest of the proposal. Co-mingling of confidential or proprietary information and other information is NOT acceptable. Neither a proposal, in its entirety, nor proposal price information will be considered confidential and proprietary. Any information that will be included in any resulting contract cannot be considered confidential. The CDOS or Colorado Attorney General will make a written determination as to the apparent validity of any written request for confidentiality. In the event the CDOS does not concur with the vendor's request for confidentiality, the written determination will be sent to the vendor. *See* § 24-72-201, *et seq.*, C.R.S.

2.11 RFP Response Material Ownership

All material submitted regarding this RFP becomes the property of the CDOS. Any person may review proposals after the "Notice of Intent to Make an Award" letter has been issued, subject to the terms of § 24-72-201, *et seq.*, C.R.S.

2.12 Agreement Type

The services provided and work performed pursuant to this RFP shall be performed on a firm, fixed-price, and turnkey basis in accordance with the terms of a negotiated contract with the selected vendor. The CDOS shall not be obligated for any other payments to vendor except as approved in writing by the Secretary of State, or designee, of CDOS and the State Controller, or designee. The parties may agree to changes during the course of performance, within the scope of the original procurement, through the use of change orders, contract amendments or contract modifications.

“Turnkey” means that the **Preferred Vendor** shall deliver one (1) complete voting system to the CDOS and multiple complete voting systems to multiple counties throughout the State as necessary, and as counties decide to enter into contract to select the Preferred Vendor as their solution for any voting system needs. Counties are under no obligation to purchase voting systems from the Preferred Vendor, nor are they under any specified time frame to initiate or complete a purchase of the Preferred Vendors’ voting system. The Turnkey voting system shall be consistent with the system performance specifications and shall be comprised of all components integrated, tested, and certified for immediate use in supporting a federal election consistent with both state and federal law and the requirements of this RFP.

Vendors are encouraged to structure their cost proposals accordingly.

2.13 Proposal Prices

Estimated proposal prices are not acceptable. Proposal prices will be considered to be your best and final offer, unless otherwise stated in the RFP. The proposal price will be considered in determining the apparent successful vendor(s). All prices offered shall be FOB Destination and shall include all costs of shipping, handling, installation, training, and full system documentation and all goods and services covered by this RFP, and such other expenses as are included elsewhere in this RFP and the vendor’s proposal.

Vendors are required to complete the pricing tables in the exact format contained in Appendix K. Vendors are cautioned to use extreme care in considering the separation of the price of the voting system and components as it applies to use by CDOS as compared to a contract with an individual county.

All proposed prices shall be binding until a contract is executed containing the agreed terms and prices.

2.14 Subcontractors

Vendors shall clearly explain planned use of subcontractors in their proposal, including terms of any subcontract, capabilities, experience and portion of the work to be performed by the sub-contractors. The vendor, as prime contractor, shall be responsible for contract performance whether or not subcontractors are used. The winning vendor(s) will be the sole point of the CDOS contact with regard to contractual matters including the performance of services and the payment of any and all charges. ***Current employees of the State and consultant affiliates may not participate as subcontractors of the vendor.***

As part of this RFP process, the CDOS shall request an Internet Criminal History Check (ICHHC) from the Colorado Bureau of Investigation (CBI) for all full-time, part-time, and permanent employees of the vendor who have any access to the voting system or vote tabulating equipment. The CDOS shall request the ICHHC at least once per calendar year for such employees prior to the first election conducted by any jurisdiction in the State of Colorado who is using the voting equipment.

2.15 Resident Bidder

Any vendor who wishes to be considered a “resident bidder” for purposes of the bid procedure provided in § 24-103-202.5, C.R.S., shall include with their bid proof that they meet the definition of resident bidder as set forth in either §§ 24-103-101(6)(a) or (b), C.R.S.

2.16 Bid Clarification and Vendor Guarantee

All information contained in this RFP and its Appendices, including amendments and modifications thereto, reflect the best and most accurate information available to the CDOS at the time of RFP preparation. No inaccuracies in such data shall constitute a basis for change in the payments to the

contractor or a basis for a legal recovery of damages, actual, consequential or punitive except to the extent that such inaccuracies are the result of intentional misrepresentation by the CDOS.

It is the responsibility of the vendor to review and understand all information, instructions, specifications, and terms and conditions in this RFP. All vendors, by submitting a signed bid, guarantee to the CDOS that they understand and agree to the terms and conditions of this RFP and that they will not default from performance by virtue of a mistake or misunderstanding. Vendors shall seek clarification from the CDOS of any information, instruction, specifications, terms and/or conditions, which they determine to be unclear. The failure of a vendor to seek clarification shall be deemed a waiver of any such clarification.

2.17 Bid Opening

As soon as is practical after the proposal submission deadline date and time, at the location noted for bid submission, the bids shall be opened and a register shall be prepared of the bids submitted in response to this solicitation. The following information will be read and entered into the bid register: name of vendor and delivery date and time. The bid register will be available on the CDOS Elections Division website.

2.18 Selection of Proposal

An Evaluation Committee will review and score offers submitted to determine which offer is the most advantageous to the State, the CDOS, and Colorado counties. The CDOS will notify all vendors by a posting on the CDOS website of the results of the RFP evaluation. The posting will be an announcement of "Notice of Intent to Make an Award" that will name the apparent successful vendor(s).

2.19 Award of Contract

The Preferred Vendor award will be made to the vendor whose proposal, conforming to this RFP, will be the most advantageous to the State, the CDOS, and Colorado counties, price and other factors considered. A contract shall be completed and signed by all parties concerned. In the event the parties are unable to enter into a contract, the CDOS may elect to cancel the "Notice of Intent to Make an Award" letter and make the award to the next most responsive vendor. The selected vendor shall successfully complete the State certification process prior to the signing of a contract with CDOS.

2.20 Acceptance of Proposal Content

The contents of the proposal (including persons specified to implement the project) of the successful vendor(s) will become contractual obligations if acquisition action ensues. Failure of the successful vendor(s) to accept these obligations in a State contract, purchase order, or similar authorized acquisition document may result in cancellation of the award and such vendor(s) may be removed from future solicitations.

2.21 RFP Cancellation

The CDOS reserves the right to cancel this entire RFP or individual components at any time, without penalty.

2.22 Incurring Costs

The CDOS is not liable for any cost incurred by vendors prior to issuance of a legally executed contract, purchase order, or other authorized acquisition document. No property interest, of any nature, shall occur until a contract is awarded and signed by all concerned parties.

2.23 Non-Discrimination

The vendor shall comply with all applicable State and federal laws, rules and regulations involving unfair employment practices and discrimination on the basis of race, color, religion, national origin, age or sex.

2.24 Rejection of Proposal

The CDOS reserves the right to reject any and all proposals, waive informalities and minor irregularities in proposals received, and to accept any portion of a proposal or all items proposed if deemed in the best interest of the CDOS and the State. Failure of a vendor to provide any information requested in this RFP may result in disqualification of the proposal.

2.25 Parent Company

If a vendor is owned or controlled by a parent company, the name, main office address and parent company's tax identification number shall be provided in the proposal. The tax identification number of the vendor responding to the RFP shall be provided.

2.26 Press Releases

Press releases, releases of information, or any communications with media entities pertaining to this RFP shall NOT be made prior to the execution of a contract without prior written approval by the CDOS.

2.27 Contract Cancellation

The CDOS reserves the right to cancel, for cause, any contract resulting from this RFP by providing timely written notice to the contractor.

2.28 Certification of Independent Price

2.28.1 Certification

By submission of a proposal, each vendor, and in the case of a joint proposal each party, thereto certifies as to its own organization, that in connection with this procurement:

- (a) The prices in this proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other vendor or with any competitor;
- (b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the vendor and will not knowingly be disclosed by the vendor prior to bid opening, directly or indirectly to any other vendor or to any competitor; and
- (c) No attempt has been made or will be made by the vendor to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

2.28.2 Individual Certification

Each person signing the RFP Cover Sheet of the proposal certifies that:

- (a) He/she is the person in the vendor's organization responsible within that organization for the decision as to the prices being offered herein and that he has not participated, and will not participate, in any action contrary to 2.28.1(a) through 2.28.1(c) above; or
- (b) He/she is not the person in the vendor's organization responsible within that organization for the decision as to the prices being offered herein but that he/she has been authorized in

writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to 2.28.1(a) through 2.28.1(c) above, and as their agent does hereby so certify; and he has not participated, and will not participate, in any action contrary to 2.28.1(a) through 2.28.1(c) above.

2.28.3 Proposal Not Considered For Award Conditions

A proposal will not be considered for award where 2.28.1(a), 2.28.1(c), or 2.28.2 above has been deleted or modified. Where 2.28.1(b) above has been deleted or modified, the proposal will not be considered for award unless the vendor furnishes with the proposal a signed statement that sets forth in detail the circumstances of the disclosure and the head of the State agency, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

2.29 Taxes

The State of Colorado, as purchaser, is exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code (Registration No. 84-730123K) and from all State and local government use taxes (Ref. Colorado Revised Statutes section 39-26.114(a)). The CDOS State and Local Sales Tax Exemption Number is 98-02565. All vendors are hereby notified that when materials are purchased in certain political sub-divisions, e.g. the City and County of Denver, a vendor may be required to pay sales tax. This sales tax will not be reimbursed by the State.

2.30 Assignment and Delegation

Except for assignment of antitrust claims, neither party to any resulting contract may assign or delegate any portion of the agreement without the prior written consent of the other party.

2.31 Availability of Funds

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. In the event funds are not appropriated, any resulting contract will become null and void, without penalty to the CDOS.

2.32 Insurance

2.32.1 Insurance Coverage

The contractor shall procure, at own expense, and maintain for the duration of the contract, the following insurance coverage; the State shall be issued certificates as an additional insured.

- (a) Standard Workers' Compensation and Employer Liability as required by state statute, including occupational disease, covering all employees on or off the work site, acting within the course and scope of their employment.
- (b) General and/or Personal Injury and/or Professional and/or Automobile Liability - (including bodily injury, personal injury and property damage) with the following minimum coverage, depending on the policy format:
 - 1. Occurrence basis policy - combined single limit of \$600,000.
 - 2. Annual Aggregate limit policy - not less than \$1 million plus agreement that vendor will purchase additional insurance to replenish the limit to \$1,000,000 if claims reduce the annual aggregate below \$600,000.
 - 3. Claims-Made policy - Combined single limit of \$600,000, plus an endorsement that

extends coverage two years beyond the policy expiration date.

- (c) Other Insurance - Vendor shall provide such other insurance as may be required by law, or in a specific solicitation.

2.32.2 Additional Insured

The State of Colorado shall be named as an additional insured on all liability policies.

2.32.3 Cancellation Prevention

The insurance shall include a provision preventing cancellation without 60-calendar days prior to written notice to the CDOS by certified mail.

2.32.4 Insurance Documentation

The vendor shall provide the following documentation to the CDOS within 7 working days of a request therefore, unless otherwise provided:

- (a) Certificate/s of adequate insurance coverage, each with a reference to the State being named as an additional insured, or
- (b) Certificate/s of adequate insurance coverage and an endorsement/s of additional insured coverage.

2.32 Independent Contractor Clause

All personal service contracts must contain the following clause:

“THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE. CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING, SHALL PROVIDE AND KEEP IN FORCE WORKER'S COMPENSATION (AND SHOW PROOF OF SUCH INSURANCE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF THE CONTRACTOR, ITS EMPLOYEES AND AGENTS.”

2.33 Choice of Law and Venue

The laws of the State of Colorado shall govern in connection with the formation, performance, and the legal enforcement of any contract resulting from this RFP, and venue for any legal action shall be with the City and County of Denver, Colorado.

2.34 Special Provisions

2.34.1 Controller's Approval

The contract shall not be deemed valid until the Controller of the State of Colorado or such assistant shall have approved it as he may designate. This provision is applicable to any contract involving the payment of money by the State.

2.34.2 Indemnification

To the extent authorized by law, the contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of the contract.

2.34.3 Discrimination and Affirmative Action

The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended and other applicable law respecting discrimination and unfair employment practices (§ 24-34-402, C.R.S.), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. *Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.*

(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above-mentioned characteristics. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer, recruitment or recruitment advertisements; lay offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.

(d) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(e) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity because of race, creed, color, sex, national origin, or ancestry.

(f) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of the contract or any order issued there under; or attempt, either directly or indirectly, to commit any act defined in this contract to be discriminatory.

(g) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts

in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(h) The contractor will include the provisions of paragraphs (a) through (h) in every sub-contract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation, with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

2.34.4 Colorado Labor Preference

(a) The provisions of §§ 8-17-101 and 102, C.R.S., for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

(b) When a construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a State or foreign country equal to the preference given or required by the State or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the money or to eliminate the inconsistency with federal requirements. *See* §§ 8-19-101 and 102, C.R.S.

2.34.5 General

(a) The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by an extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

(b) At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

(c) Pursuant to § 24-30-202.4, C.R.S., as amended, the State controller may withhold debts owed to State agencies under the vendor offset intercept system for: (1) unpaid child support debt arrearages; (2) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, C.R.S.; (3) unpaid loans due to the student loan division of the department of higher education; (4) owed amounts required to be paid to the unemployment compensation fund; and (5) other unpaid debts

owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

(d) The signatories aver that they are familiar with § 18-8-301, *et seq.*, C.R.S. (Bribery and Corrupt Influences) and § 18-8-401, *et seq.*, C.R.S. (Abuse of Public Office), and that no violation of such provisions is present.

(e) The signatories aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the service or property described herein.

2.34.6 Certifications

The vendor awarded this RFP will be required in the terms of the contract to provide, comply with, and if applicable, execute the certifications set forth in the Appendices as follows:

- Appendix B - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction
- Appendix C - Certification of Compliance with the Requirements of the Federal Drug-Free Workplace Act of 1988
- Appendix D - Certification Regarding Lobbying
- Appendix E - Tobacco Free Certification

3. Vendor's Response Format

Each proposal shall consist of two (2) sealed packages.

The first package shall be labeled "**Business Proposal**" and shall contain one (1) original hardcopy (marked as "ORIGINAL"), eight (8) additional hardcopies (each marked as "COPY") of the Business Proposal including the State of Colorado Request for Proposal Cover Page and a Transmittal Letter. One (1) electronic copy (in MS Word/Excel, on a CD format) is required in addition to the hard copy requirements.

The second package shall be labeled "**Cost Proposal**" and shall contain one (1) original hardcopy (marked as "ORIGINAL"), eight (8) additional hardcopies (each marked as "COPY") of the Cost Proposal. One (1) electronic copy (in MS Excel, on a CD format) is required in addition to the hard copy requirements.

Overly elaborate proposals are not desired.

When responding to requirements, vendor's proposals shall include the reference number of the requirement with their response. If responding to a requirement in section 4.23, you shall include this reference with your response.

3.1 Page Limits

The CDOS may elect not to evaluate proposals that exceed the page limits specified for each required proposal section. A page is defined as one (1) side of an 8 ½" by 11" piece of paper. Font size for all narrative descriptions shall be no smaller than 12 characters per inch. Indexes, tables of contents, lists of figures/tables, and glossary of terms will not be counted toward the overall page count.

Graphic materials, standard commercial brochures or descriptions, or other standard product documentation that are attached in appendices or exhibits will not be counted against page limitations. However, evaluators cannot be expected to comprehend all material in exhibits whose content and relevance to the proposal description are not clearly integrated into the proposal.

Vendors are encouraged to print on both sides of the paper.

3.2 State of Colorado RFP Signature Page

An officer of the vendor who is legally authorized to bind the vendor to the proposal must sign the State of Colorado Request for Proposal Cover Page (Appendix A) in ink.

3.3 Transmittal Letter

All vendors shall submit a Transmittal Letter positively stating their willingness and ability to comply with all work requirements, general contract requirements, and other terms and conditions specified in this RFP. If this is not the case, any exceptions or proposed deviations from requirements listed in this RFP must be described and explained. The CDOS reserves the right to reject any proposal indicating such exceptions or deviations. Additional requirements for the Transmittal Letter are that it:

- Shall be on official business letterhead of the vendor;
- Should identify all material and enclosures comprising the proposal;
- Shall be signed by an individual authorized to commit the vendor to the work proposed;
- Shall disclose intended use of any subcontracts; and
- Shall acknowledge receipt of all amendments and addenda to this RFP.

No reference is to be made to any pricing information or elements of cost. If any element of cost is referred to in the Transmittal Letter, the vendor may be disqualified.

Vendors who fail to submit a Transmittal Letter may not be considered for award.

Page Limit: 4 pages

3.4 Other Solicitations and Potential Conflicts

Vendors are required to disclose all current or pending voting system related projects with the State of Colorado, as well as with Jurisdictions within the State of Colorado.

Vendors shall include in the Transmittal Letter ALL potential and current conflicts related to this RFP and any other services related to this procurement.

Page Limit: none

3.5 References

- (a) Vendors' proposals shall provide the institutional name of the largest government "county installed site" at which they have completed implementation of the voting system, or components of voting systems that the vendor is proposing to the State of Colorado through this RFP, citing specific components of the voting system that have been implemented.
- (b) "Largest" in the above sentences refers to the county installed site that has the largest number of active and inactive registered voters in their voter registration databases for the 2004 General Election.
- (c) For each site reference, vendors shall provide:
 1. Client Name,
 2. Number of total voter registration records in the county's database as of the cutoff for voter registration of the 2004 General Election,
 3. Client Key contact,
 4. Key contact phone number and address,
 5. Overview of the client organization,

6. List of deliverables for the project,
 7. Project start and end dates,
 8. Description of the approach and activities used in both project management and transfer of knowledge to the county election staff,
 9. Any additional information that will help the evaluation team understand the scope and complexity of the engagement, such as dollar value of the project or the number of voting devices delivered to the county,
 10. Specific knowledge and/or experience required by the engagement in design and implementation of systems with a very high level of system security.
- (d) For each of these references, the vendor shall state clearly if there is any financial partnership, joint marketing agreement, royalty payment, or other mutually beneficial financial arrangement between the vendor and the reference site or any of its employees.
- (e) Vendors shall provide the institutional names of ALL government installed sites at which they have been involved with an implementation of a voting system in the past five (3) years.
- (f) For each site reference, vendors shall provide:
1. Client Name,
 2. Client Key contact,
 3. Key contact phone number and address,
 4. Overview of the client organization.
- (g) Representatives or agents of the Colorado Secretary of State's Office and its voting system evaluation team members might call any or all of these reference organizations. We strongly suggest that you notify them of that possibility.

Page Limit: none

3.6 Business Proposal

The Business Proposal should present a full and complete description of the qualifications and approach of the vendor to carry out the requirements set forth in Section 5, Requirements. It is important that the proposal outline described below be followed since any deviation from this may disqualify a proposal. **(Cost information may not be disclosed in the Business Proposal)**.

The Business Proposal will include the following sections:

3.6.1 Executive Summary

The Executive Summary should provide the CDOS with an overall understanding of the proposal. Include a brief review of the proposal. The review shall be prepared in such a manner as to make it understandable to individuals not familiar with the terminology peculiar to a project of this type.

Page Limit: 5 pages

3.6.2 Company Overview

Provide information about your company, its capabilities, and why it should be selected for this project. Describe evidence of company stability and ability to perform required work for this project. Include items such as number of years in business, number of employees, employees with voting systems experience, and company location(s) (including any offices in Colorado). Vendors may provide any additional information that demonstrates the strengths they can bring to this project.

The vendor shall indicate their form of organization (i.e., partnership, non-profit corporation, Colorado corporation, non-Colorado corporation, or some other structure). Non-Colorado

corporations shall register as a foreign corporation to conduct business in Colorado and appoint a resident agent to receive process. The vendor further certifies that it currently has a Certificate of Good Standing or Certificate of Existence to do business in Colorado. The vendor shall provide proof of such certification upon request by the CDOS.

This section should also include the following:

1. Include a brief statement of compliance with the terms and conditions as set forth in Section 2, Administrative Information.
2. Include a statement of compliance with the requirements as set forth in Section 5, Requirements and in Appendix F, Election Rule 45 – Voting System Certification Standards. It is important that the Vendor understand the size and scope of this procurement.
3. Include any additional information you wish to add pertinent to your company doing business with the State of Colorado.

Page Limit: 5 pages

3.6.3 Relevant Business Experience

Vendors shall provide adequate detail (including references) of at least two states comparable to Colorado where they have fully installed the proposed voting system, serving as the prime contractor, within the last five years involving either a statewide or large (Voting Age Pop. > 300k) county efforts. Substitution of the proposed voting system may be made for prior versions or models of the voting system. **Vendors will provide permission, with their proposals, for vendor's references to release information to the State.** Each reference shall include both a primary and secondary client contact person, with current telephone, facsimile numbers and email addresses for each. For each referenced project describe if the project was completed on time and within the original bid amount. If not, identify time and overage. Additionally, disclose any litigation you have been involved with over contract performance. The CDOS reserves the right to contact and verify, with any and all firms with whom the vendor has been known to have conducted business, the quality and degree of satisfaction for such performance.

Reference information should include:

1. Number of internal operators/programmers of the voting system.
2. Number of external users of the voting system – this includes election judges, official observers, testers, programmers, etc.
3. Number of elections conducted with voting system.
4. Description of the software, firmware and hardware if different from the proposed voting system.
5. Information regarding the change management and/or implementation for the voting system, including updates and upgrades.
6. References from each project.

Preference will be given to Vendors who demonstrate their experience with installed, tried and proven technologies.

Referenced projects should also demonstrate a proven capability in the following areas:

1. Requirements gathering and definition
2. System Design
3. System development
4. Security
5. Testing, and
6. Project Management, and
7. Training of county election officials and/or staff.

Vendors may provide experience with other statewide implementations that may not have involved voting system projects, but may demonstrate experience in the issues relating to a statewide project implementation.

Page Limit: 10 pages

3.6.4 Project Management Schedule

- (a) The vendor shall present its approach and capability to control and deliver the equipment and services proposed. The vendor shall present a master integrated schedule depicting all activities and milestones from contract award to training of the CDOS staff and installation and delivery of equipment to a county. This section shall also contain a matrix that lists tasks and identifies the corresponding “owner” or responsible party. The CDOS tasks shall be identified as well as those of any subcontractor(s), or county election officials. Proposals shall include the number of persons tied to each task, and the estimated time to complete the task.
- (b) A proposed deliverables schedule shall be provided as a separate document in this section that reflects the master integrated schedule.
- (c) Vendors’ proposals shall include preparation and delivery of concise, accurate monthly reports of the project’s status to (a) each county that selects their voting systems and (b) the State of Colorado outlining: (a) main tasks worked on during the week, (b) milestones reached, (c) deliverables provided, (d) main tasks to be worked on next week, (e) project concerns and problems, and (f) items needed from the county elections office’s project team.
- (d) The proposal shall contain, but not be limited to, a response stating the understanding of the work to be performed and proposing an approach to work with the CDOS and Colorado’s county elections offices in completing the project in a timely manner.
- (e) The proposed work plan shall address specifically the vendor’s organizational and manufacturing capacity to provide, install, and make fully operational both complete and partial voting systems throughout various counties in Colorado. The proposals shall provide plans for implementation on a single county basis. That is, vendors’ proposals shall provide a work plan on an assumption that a county chooses its voting system to replace all or part of that county’s voting system. The work plan shall contain at a minimum the detailed list of tasks, the types of personnel, the number of personnel required and the approximate time required to:
 - 1. Provide training for the CDOS staff as identified in this RFP.
 - 2. Assess a county’s specific organizational and technical requirements,
 - 3. Manufacture and ship the voting equipment,
 - 4. Move the systems through the county’s acceptance testing,
 - 5. Train the county’s professional election staff in system storage, maintenance, and deployment, (e) train the county’s poll workers in election-day operation, (f) assist in deploying the systems into the polling places,
 - 6. Assist CDOS in preparing reports on election results, and provide other on-call support during the election cycle.
- (f) The assumed deadline for completion of all deliverables is the November, 2006 General Election, by which time all voting systems in all counties shall have been used successfully at least once. Vendors’ proposals shall present the above work plan information in the format of a preliminary, but detailed, Gantt chart that list tasks, the numbers of vendor resource persons assigned to the tasks, the labor days those resource persons will devote to the tasks, and the proposed dates associated with those tasks.

Page Limit: 25 pages.

3.6.5 Project Organization and Preliminary Project Plan

- (a) Proposals shall include an organization chart of the vendor's company showing all major business units, and indicate which business units will perform the requirements of the contract, where the management of this contract will fall within the organization, and what corporate resources will be available to support this contract in both primary and secondary, or back-up roles.
- (b) Details shall include the number of employees and subcontractors broken down by their status (employee, subcontractor, or independent contractor) that the vendor, if successful in this procurement, will assign to this project; provide the résumés of the key project members, including all technical and training personnel, and executives that will be assigned to the project.
- (c) The State of Colorado and Colorado's county elections offices retain the right to accept or reject the vendor's resource personnel at the time of contract negotiation. After entering into an agreement with a vendor, the State of Colorado and Colorado's counties shall retain the sole right to insist on removal and replacement of any of the vendor's resource persons at any time during the term of the Contract. After entering into an agreement with the vendor, the vendor shall not substitute personnel assigned to this project without receiving prior, written authorization to do so by the CDOS and/or Colorado's counties, which shall not be unreasonably withheld.

Page Limit: 10 pages

3.6.6 Proposed Staffing

- (a) Provide detailed information for the Evaluation Team to consider regarding the proposed Project Team that will be assigned to the implementation of this project. Consideration will be given to the named personnel and their placement in the project structure, title, qualifications, and experience. The evaluation will include project staff experience. Consequently, proposals shall not include the resume of staff that will not be actively involved in the project. The project manager whose resume is included in the Proposal will be evaluated and is expected to be available for at least the first year of the Contract, beginning on the Contract effective date. Changes to project management once the project has begun can only be made with the written approval of the Secretary. In addition, supporting rationale shall be provided to show that the organization is adequate to support the overall effort and to justify the number and allocation of personnel involved.
- (b) With the submitted proposal, vendors are to indicate the number of technical support staff in the company that will be assigned to the implementation of this project and provide their resume.
- (c) Proposals shall include strategic relationships for work on this project: List all subcontractors (both by name of company and resource personnel) and outsourced services to be used in providing the voting system and related services in the State of Colorado. For each major subcontractor provide a profile of the subcontractor, an indication of the firm's ability to perform on this project, and the nature of the relationship between the prime contractor and the subcontractor (such as 1099, contractual partnership, partial ownership, or cross-ownership). Vendors' proposals shall contain a statement from each and every subcontractor and proposal team member agreeing to the terms, conditions, and requirements of the proposal and any subsequent contract made with the State of Colorado pursuant to this procurement.
- (d) Service technicians should be well trained, and capable of replacing malfunctioning equipment in the Election Offices. As a primary function, these technicians shall transport spare voting units for possible replacement of voting units that are not working properly, and shall pick-up and return units which are not promptly returned to service for future repair or replacement. Each technician shall further maintain a reasonable supply of spare parts and components necessary to

replace a malfunctioning voting unit or return it to service. Describe how you plan to meet the requirements as stated above.

Page Limit:none

3.6.7 Financial Status

Vendors shall provide company financial information. This information shall include how long the company has been in business and whether or not it is a wholly owned subsidiary of another company. If the company is publicly traded, include a financial statement for the last two (2) years, which includes, at a minimum, a profit and loss statement and a balance sheet. If the company is not publicly held, submit a copy of the company's most recently audited financial statement and an organization/financial structure of the company. Unaudited financial statements or Dun and Bradstreet reports alone are unacceptable, and if submitted without additional support documentation, may be grounds to eliminate the company from consideration. All financial information (except public information for a publicly held company) will be treated as confidential and shall be used for this proposal only.

The vendor shall disclose any and all judgments, pending or expected litigation, or other real or potential financial reversals that might materially affect the viability or stability of the proposing organization, or warrant that no such condition is known to exist.

The vendor shall also include a statement of the vendor's other contractual obligations that might have an influence on the capabilities of the vendor to perform the conditions of the contract (i.e., shared personnel) or, whose financial condition is deemed to be a risk to the CDOS for successful performance of the contract.

The CDOS may disqualify from consideration any vendor who is involved in bankruptcy proceedings.

Page Limit:none

3.6.8 Cost Proposal

- (a) Vendors shall submit their cost proposals in both hardcopy tables and electronic spreadsheets used to produce the hardcopy tables in their proposals. The CDOS provides tables A1, A2, A3, A4, B1, B2 and B3 (Located in Appendix K) and associated Microsoft Excel spreadsheet templates that vendors shall use in preparation of their cost proposals. These files will be available for download during the RFP response period on the CDOS website.
- (b) Vendors shall submit their cost proposals by completing the un-shaded cells in each and all of Tables A1, A2, A3, A4, B1, B3 and B3 (Located in Appendix K) using the number of cells and rows as are necessary to present complete and binding costs the goods and services they are proposing to the State of Colorado and its counties.

Page Limit:none

4 Proposal Evaluation

4.1 Introduction

The CDOS will conduct a comprehensive, fair and impartial evaluation of proposals received in response to this Request for Proposal. The objective of the final evaluation is to determine the proposal that most effectively meets the CDOS goals and requirements. The contract for this project will be awarded to the

Vendor whose proposal, conforming to the RFP, will be most advantageous to the CDOS and the State of Colorado, price and other factors considered.

An RFP Evaluation Committee will review and score submitted proposals to determine which (not limited to):

1. Best meet RFP requirements;
2. Require only limited clarification;
3. Demonstrate a sound approach;
4. Show good understanding of the requirements;
5. Have adequate, qualified personnel and past experience;
6. Have adequate finances and resources to successfully complete the project;
7. Have reasonable costs; and
8. Minimize risk of failure to the CDOS and Colorado county election officials.

4.2 Evaluation Process

The CDOS reserves the right to award on receipt of initial proposals. If award is not made upon receipt of initial proposals, the CDOS will provide vendors remaining in the competitive range with written requests for clarifications/notice of deficiencies in their proposals. Vendors will be provided a date at which oral presentations and demonstrations will be heard. Each oral presentation and demonstration is planned to be eight (8) hours in duration. The presentation shall consist of a vendor briefing concerning its technical approach, election management software and voting systems equipment and shall also address clarifications and deficiency items identified by the CDOS that may lead to discussions. Guidelines regarding the oral presentations will be distributed to those vendors remaining in the competitive range. At least two (2), but no more than six (6) vendors shall be asked to make oral presentations and/or demonstrations. Such presentations will be at the vendor's expense.

Vendors may be given an opportunity, after the conclusion of the oral presentations, to submit a best and final offer (BAFO). Vendors will be informed in writing of the date by which best and final offers are due. Vendors shall make any revisions the CDOS deems necessary to clarify or correct weaknesses in their proposal. Revisions shall be made by "change page" to proposals, including pricing. The CDOS does not require complete, substantial proposal rewrites. Vendors are cautioned not to make changes in the technical approach or make price/cost revisions that are not clearly explained and/or justified in any proposal revision. Vendors assume the risk that proposed revisions be adequately explained so the CDOS understands the nature of the revisions and the risk to the CDOS from unreasonable forecasts of contractor costs.

An Evaluation Committee will be assembled that consists of cross-discipline representatives from CDOS and county offices, including program personnel and information technology professionals. Evaluators will have an opportunity to change their scores and comments based on deliberative discussions.

The relevance and comprehensiveness of past experience and qualifications will similarly be evaluated to assess the risk of either unacceptable or late performance.

While a numerical rating system will be used to assist the evaluation committee in selecting the competitive range (if necessary) and making the award decision, the award decision ultimately is a business judgment that will reflect an integrated assessment of the relative merits of the proposals using the factors and their relative weights.

Vendors should not assume that they will have an opportunity for oral presentations or revisions of proposals, so they should submit their most favorable proposals as their initial proposal. If award is not made on receipt of initial proposals, Vendors in the competitive range (those most responsive to the requirements) will be provided an opportunity to make an oral presentation as part of the discussions. The competitive range determination will be based on the written proposals, so Vendors are cautioned to

insure that their proposals adequately convey the soundness of their approach and understanding of the requirements.

4.3 Evaluation Procedure

Evaluation Phase 1- Administrative (Pass/Fail)

Proposals will be evaluated to determine if the administrative requirements have been met. These requirements include:

1. Proposals have complied with the bid due date and time
2. The requested format and number of copies are adhered to.
3. The Request for Proposal Cover Page meets the content and other requirements
4. The Transmittal Letter is enclosed and meets the content and other requirements
5. Separate packaging rules are followed

Vendor shall be considered noncompliant and may be eliminated from further evaluation if information is incomplete.

Evaluation Phase 2 – Technical and Business (70% weight factor)

Only those vendors who pass Evaluation Phase 1 will enter Evaluation Phase 2. Phase 2 will result in a numerical score based upon the information provided in the Business Proposal and the “Voting System Requirements” document; the information is clear and concise; and how well it meets the requirements as defined in the sections.

All information requested shall be provided.

Evaluation Phase 3 – Cost Evaluation (30% weight factor)

Each proposal will be assigned points based on Cost Proposal. CDOS will use annualized on-going costs in the cost evaluation of the proposal.

Evaluation Phase 4 – Initial Points Calculation

The points assigned in Phases 2 and 3 will be added together to produce an initial point score for each proposal. A determination will be made to which vendors, offering the most advantageous proposal, remain in the competitive range.

Evaluation Phase 5 – Oral Presentations and Demonstrations

At the sole option of the CDOS, as few as two (2) vendors or as many as six (6) vendors (selected in rank order) will be eligible for further evaluation in this phase. If requested by the CDOS, vendors shall provide an oral presentation concerning the overall proposal. Selected vendors shall be prepared to provide a presentation at a Denver metro location, during the timeframe listed in the Schedule of Activities for this RFP. Vendors will be given at least five (5)-calendar days advance notice to prepare the oral presentation.

These presentations will provide vendors with an opportunity to present information to the Evaluation Committee that the committee will use to award points to the proposal based on the following:

1. The Vendor’s grasp and understanding of the project as a whole.
2. The Vendor’s overall approach to project execution and management.

The Vendor’s complete solution shall be made available to the evaluation team for a period of five (5) business days, independent of Vendor or Representative being present. The Vendor shall provide two (2) DRE units – one with V-VPAT, and one without; one (1) precinct scanner; one (1) central count scanner; all of the necessary printer and printer components necessary as part of the system; all devices necessary for “election day” voting for both DRE or Scanner operations; one (1) PC or laptop with the Election Management Software loaded and prepared for evaluation, one (1) technical representative on-site for a

minimum of two(2) business days and all the necessary adaptors, connectors, election media devices, and/or specific memory devices for programming, downloading and uploading remote devices for this demonstration period. The equipment will reside in a secure room at the CDOS offices. The purpose of this activity is to allow the evaluation team to “test drive” the voting system to gain a better understanding of the application and the processes.

If a Vendor is unable or unwilling to provide this demonstration, they shall provide an explanation in their proposal.

Evaluation Phase 6 – Final Points Calculation

The initial points assigned in Phases 2 and 3 will be re-evaluated and subject to adjustments based on Phase 5 activities. The adjusted points will be added together to produce a final point score for each proposal.

4.4 Notice of Intent to Award

Award shall be made to the Vendor offering the most advantageous proposal, price and other factors considered.

The CDOS anticipates making a proposal selection within 4 weeks after closing date for receipt of proposals. Upon selection, and after required approvals, the CDOS will post a Notice of Intent to Award on the CDOS website.

5. Requirements

This section of the RFP enumerates features and functions considered essential to the State of Colorado. Vendors are asked to respond to this section at the end of each subsection by affirming all of the functions will be supported within the standard product or not. Please provide an explanation on how you will achieve the requirement if your system does not currently meet it. Also indicate if the modification will become part of the standard product. Separately, list the item numbers of functions that will require modification for a fee that will be listed in the cost proposal. Exclusively identifying costs for these requirements in the cost proposal by Requirement number will allow for evaluation of the need of the particular item and whether or not they will be exercised in the final statement of work.

A CDOS failure to include a system requirement that is essential to the successful operation of the system proposed does not alleviate the vendor’s responsibility to provide both specifications and cost(s) for the additional system requirements.

In addition to meeting the requirements for certification as indicated in Rule 45, the voting system and proposal shall meet the following additional requirements:

5.1 Certification

- (a) All systems offered have been or will be certified by the State of Colorado Department of State according to the requirement set forth in Secretary of State Rule 45 located in Appendix F of this RFP prior to the signing of a contract.
- (b) Prior to the State making a decision to enter contract negotiations, any proposed equipment shall have ITA qualification and Vendor shall submit all documentation required to the State as necessary under Rule 45. If the Vendor fails to produce the required ITA qualification prior to the award date, that Vendor’s Proposal will be rejected.
- (c) Vendors' proposals shall contain a written description of the vendor's action plan to maintain software, hardware, and firmware certifications by Independent Testing Authorities (ITA’s) selected by NASED and/or the EAC; by the release of updated requirements in the Voluntary Voting System

Guidelines as released by the EAC; and by the certification standards, and updates to those standards as issued by the CDOS of the proposed voting system during coming upgrades and versions.

5.2 Legal Requirements

- (a) The vendor's proposed systems and functionality provided by the systems and all voting devices shall comply with all provisions of Federal, State, and local election laws and regulations, and future modifications to those laws and regulations.
- (b) Vendors' proposals shall contain detailed narrative (a) affirming that the firm's authorized representatives have read and understand all applicable Federal, State, and local election and information technology laws and regulations, (b) affirming specifically that the firm's authorized representatives have read, understood, and agree to comply with the requirements of the Help America Vote Act of 2002, (c) affirming specifically that the firm's authorized representatives have read, understood, and agreed to comply with the requirements of Colorado Title 1 C.R.S., (d) affirming specifically that the firm's authorized representatives have read, understood, and agreed to comply with the requirements of the Secretary of State Rules, (e) affirming that the proposed system and functionality provided by the election management system and all voting devices shall comply with all provisions of Federal, State, and local election and information technology laws and regulations, and future modifications to those laws and regulations, and (f) describing actions the firm will take to keep the proposed voting system supplied to the State of Colorado and/or Colorado counties in compliance with all applicable election laws and regulations.
- (c) Vendors' proposals shall include narrative descriptions of the following:
 - 1. Any outstanding legal actions or potential claims against the prime vendor, prime vendor's owners, prime vendor employees or any party associated with the vendor's proposal and a brief description of any such action,
 - 2. Any settled or closed legal actions or claims against the prime vendor and all subcontractors over the past five (5) years,
 - 3. Determinations or rulings against the prime vendor or any subcontractors in a Federal, state or local court of law in a court case involving the use of any of its voting systems,
 - 4. Decertification of any of the vendor's systems, equipment, or software by any Federal, state, or local jurisdiction and the reason for Decertification,
 - 5. Debarment actions taken by any state or local government against the prime vendor and all subcontractors during the past five (5) years.

5.3 Accessibility

The vendor's proposed voting system and physically disabled accessibility units as identified by the same system software, hardware, and firmware version numbers proposed to the State of Colorado and listed in the narrative response to this requirement, shall have been tested successfully against the 2002 Voting System Standard by Independent Testing Authorities (ITA) selected by the National Association of State Election Directors (NASED) and/or the U.S. Election Assistance Commission (EAC).

5.4 Election Management System

- (a) Integration with the Statewide voter registration system:
 - 1. The State of Colorado requires the vendor to integrate its voting system with the CDOS Election Results Reporting being handled by the statewide voter registration system.
 - 2. Vendors in their proposals shall (1) describe their experience integrating results from their vote tabulation and tally systems with election results reporting systems and (2) describe in detail their approach to researching, designing, programming, testing, and making operational integrating their vote tabulation and tally systems with election results reporting systems.

3. Vendors should be particularly mindful of the required XML interface format, the requirement for transmission through a secure web service between systems, and the format for data elements.
- (b) The vendor's proposed system shall have a single, unified, integrated election management system for all voting devices. The election management system shall include, but not necessarily be limited to, functions for election setup, ballot layout and design, vote tabulation and accumulation, and production of reports on election results.
- (c) Vendors' proposals shall describe the proposed election management system software and its ability to serve as a single, unified, integrated election management system for all voting devices being proposed to Colorado.
- (d) The vendor's proposed system may include a capability for an electronic interface or data transfer between a county's voter registration and the vendor's voting system to facilitate the issuance of correct ballot styles to the voters automatically and electronically. Many refer to this capability as an "electronic poll book." All counties in Colorado will operate a standardized voter registration system, which contains an electronic poll book solution. The vendor's proposed "electronic poll book" capability shall include the capability to capture "voter history" data for subsequent transfer to and import into the counties' voter registration systems. Vendors' proposals shall contain a description of the steps to (a) research and design the software outlined in this requirement, (b) develop the application, (c) test the application, (d) document the application, and (e) implement the application in Colorado's Counties.

(e) Data Input Requirements:

1. Vendors' proposals shall state in clear terms an understanding that all data entered into the system and database by a county elections office is and shall remain the property of that county. No legal stipulation or technical feature in the vendor's proposed system shall require the State of Colorado or any county elections office to obtain permission from the vendor or pay the vendor any sum in order to access and use any data entered into the system by the county or its voters.
2. Vendors' proposals shall state in clear terms an understanding that all data entered into the system shall not be in any proprietary or encrypted format that will render it incapable of being extracted into standard ASCII file formats (or standard graphics images where applicable) by reasonably trained staff of the State of Colorado or an elections jurisdiction using technical documentation provided by the vendor.
3. Vendors' proposals shall identify any data elements, other than application passwords, that are in any way stored in a format that is proprietary, encrypted, or marked with expiry keys that would render the data incapable of being extracted by trained, authorized users of the State of Colorado or a county elections office.

(f) Output Requirements – Standard Reports

1. The vendor's proposed system shall provide the Voting System with a series of standard reports that the system produces. Vendors' proposals shall list all standard reports that will arrive with the system when it is installed after final acceptance, indicating a short name of each report or output file, a brief description of the report's or files contents, the level of user (such as system administrator or general user) who has authorization to create the report or output file, the module or subsystem from which users generate the output, and a statement of when the report can or shall be run.
2. The vendor's proposed system shall generate a variety of reports for use in ballot proofing by Colorado's local elections staffs. Vendors' proposals shall include a list and description of all reports the proposed system generates for ballot proofing (such as ballot layout, and candidate order).

(g) Output Requirements – Report Generator

1. The vendor's proposed system shall provide a software solution that includes a general-purpose report writer that can assist in extracting data from the election management and voter tabulation database(s) and format reports using the extracted data. The solution can involve a third party report writer to supplement any capabilities that are internal to the election management software. In general, the preferred solution will involve an ability to query the database and select data independently from any third party report writer software. However, if a vendor's proposal includes and requires the use of third party report writer software, the proposal shall include the name of the software publisher and the name and version number of the software. (The cost of the report writer licenses shall be included in any vendor's cost proposal.)

(h) Output Requirements – HTML / XML

1. The vendor's proposal may include a detailed description of the system's ability to produce HTML-formatted and XML-formatted files capable of being loaded and viewed by the current and two immediately previous versions of Microsoft Internet Explorer, Netscape browsers, and "Fire fox" browsers. If submitted in the proposal, the vendor shall list (a) all of the system's files and reports that can be produced in HTML format, (b) the steps required to produce these files and reports in HTML format, (c) the version of HTML file produced, and (d) any third-party software that a county elections office must purchase and use with the vendor-supplied software to generate the HTML files.
2. The vendor's proposal shall list (a) all of the system's files and reports that can be produced in XML format, (b) the steps required to produce these files and reports in XML format, (c) the version of XML file produced, and (d) any third-party software that a county elections office must purchase and use with the vendor-supplied software to generate the XML files.

5.5 Colorado Voting System Requirements

- 5.5.1 Vendors shall provide complete information regarding device specifications for each device offered including but not limited to;
- (a) Weight of units with and without battery back-up,
 - (b) All necessary physical dimensions,
 - (c) Power requirements for all pieces of system,
 - (d) Environmental requirements during election and while in storage,
 - (e) Storage container requirements,
 - (f) Maintenance requirements when not in use or prior to, during and following an election,
 - (g) Dimensions of the physical space required for the proper use of each device during an election,
 - (h) Voting device stand specifications,
 - (i) Procedure for setting the device up for an election, use by voter during election, end of election tally and shutdown procedures and restart procedures if the device were to fail during an election,
 - (j) Information on peripheral equipment such as headphones, microphones, speakers, printers, and media cards, connectors, etc.
 - (k) Internal moving media included in the proposed voting system.
 - (l) Cases necessary for transporting or storing the Voting System.

- 5.5.2 Vendors shall describe and explain in detail the usability features of the proposed voting systems as they apply to all voters, elections officials, and specifically, to voters with disabilities.
- (a) By definition, usability refers to a measurable characteristic that indicates the degree to which a system is easy to use. Usable voting systems enable voters to perform tasks quickly and accurately. A usable voting system also facilitates election administration tasks, such as setting up and configuring the system to match the requirements of a particular election.
- 5.5.3 Proposals should provide detailed information to include, but is not limited to, how the proposed Voting System provides for the following critical items:
- (a) Guidance of voters through the complete voting process,
 - (b) Presentation of content, such as contest information, candidates, referendums, and instructions in text (visual) only, text (visual) and audio, and audio only formats,
 - (c) Assurance that voters are able to cast their votes easily and accurately,
 - (d) Appropriate level of guidance and feedback during the voting process, enabling voters to complete all required tasks and detect and correct any errors, and
 - (e) Features that make it easy to navigate through the available information and options (i.e. skips through material, repeat, expand information etc).
- 5.5.4 Proposal shall provide a detailed description of the design factors of the proposed Voting System that enables the equipment, including all components, to withstand frequent loading and unloading, stacking, assembling, disassembling, reassembling, and heavy use, without damage.
- 5.5.5 Vendor's proposal shall describe any tools the Vendor has developed to ensure election workers have easy to follow and understand instructions for how to assemble, disassemble, and otherwise use and operate the Voting System (Include copies if appropriate).
- 5.5.6 If appropriate, describe the steps involved in connecting, operating, loading paper, etc of the printer that provides a V-VPAT for the proposed voting system.
- 5.5.7 Provide detailed descriptions of any safety features of the proposed voting system, including the arrangement of the voting system components when fully assembled, which ensures they do not create hazards for election workers or voters.
- 5.5.8 The vendor's proposed voting system shall be able to output files in PDF format that contain "sample ballots" matching the layout and instructions of each ballot type (including Spanish language ballot instructions) to be used in an election. The PDF-formatted files shall display the ballot images on standard paper, and can include standard sizes of Letter, Legal, and Tabloid.
- (a) Vendors' proposals shall contain a detailed procedural description of the steps required to use the system to produce the PDF-formatted files from the proposed DRE system.
- 5.5.9 The vendor's proposed solution shall include DRE voting devices, each of which are capable of being directly connected to a printer. Vendors' proposals shall detail:
- (a) The makes and models of all printers that the vendor knows to have been connected successfully and used in actual public election settings with the proposed voting device,
 - (b) The make and model of the printer(s) proposed for use in county polling places,
 - (c) The print technology used by the proposed printers (that is, thermal, inkjet, laser, dot matrix, or other impact),
 - (d) The print speed of the printers (expressed either in characters per second or 8 1/2" x 11" pages per minute),

- (e) The cable required for the connection between the voting device and the printer,
 - (f) The type of electrical current and outlet required for the printer, and
 - (g) The printer's ability (expressed in hours of continuous use) to operate on battery backup in absence of commercial electrical current.
- 5.5.10 The vendor's proposed voting systems shall present the ballot to the voter in a clear and unambiguous manner so that the ballot is easy to read and follows a logical progression. Vendors' proposals shall contain detailed narrative indicating the technology used to present the ballot to the voter in such a manner. Vendors' proposals should present (a) any independent research, (b) vendor-sponsored research [clearly labeled as such], (c) election official testimonials, or (d) articles from newspapers, magazines, or journals attesting to the capability of the proposed system to meet this requirement.
- 5.5.11 The vendor's proposed voting system shall have the ability to incorporate minimal, easy-to-follow on-screen instructions on the ballot for the voter.
- (a) Vendors' proposals shall contain a description of the visual characteristics (including font choices and type size choices) of the on-screen instructions.
 - (b) Vendors' proposals shall contain a list and description of the standard on-screen instructions that the system will present to the voters during the voting process. Vendors' proposals shall contain a description of the proposed system's capabilities to allow Colorado's system administrators to modify the content and appearance of on-screen instructions.
- 5.5.12 The vendor's proposed system shall demonstrate ease of use for:
- (a) Authorized county elections office staff members to set up elections and ballots,
 - (b) Authorized county elections office staff to carry out system administrative functions,
 - (c) Voters to cast their ballots, and
 - (d) Authorized county elections office staff members to tabulate and report election results.
- 5.5.13 Vendors' proposals shall include documentation relating to:
- (a) Definition of screen sizes (preferably in diagonal inches of viewable screen),
 - (b) Definition of available font sizes,
 - (c) Definition of color options,
 - (d) The user interface with the system (such as touch screen, wheel activated, voice-activated commands, and sip-and-puff devices)
 - (e) Screen shots of system screens,
 - (f) Workflow diagrams demonstrating the procedures for using the system,
 - (g) Results of any available ergonomic analyses of the hardware and software screens,
 - (h) Market research or other documented research reports concerning the system's ease of use, and
 - (i) News articles or reports containing voter reactions to the proposed system.
- 5.5.14 Vendors' proposals for medium capacity and high-capacity, bin-feed optical scan voting devices shall contain narrative with detailed technical specifications of the optical scan devices including, but not limited to:
- (a) Physical dimensions,
 - (b) Storage space requirements,
 - (c) Maintenance requirements and recommended maintenance procedures for optical reader components,
 - (d) Environmental requirements for storage and use,
 - (e) Electrical requirements,
 - (f) Backup electrical power supplies and capabilities (if any),
 - (g) Page-size limitations of ballots that can be fed through the device during vote tallying,

- (h) Weights and quality of paper and ballot stock that can be fed through the device during vote tallying,
- (i) Recommendations for types of paper or ballot stock to be used with the optical scan device,
- (j) Any limitations on the ability of the device to read both sides of a ballot sheet, and
- (k) Any limitations on the ability of the device to read ballots fed in from top-to-bottom or bottom-to-top directions.

5.5.15 Poll Place Voting Arrangement Requirements

- (a) Vendors' proposals for DRE voting equipment shall contain a recommended arrangement of check-in tables, booths, the paths of travel for voters, and placement of electrical cords and connections to allow for (1) efficient flow of voters on Election Day, (2) maximum confidentiality and privacy while voting, and (3) maximum safety for voters and poll workers.
- (b) Vendors' proposals for medium-duty optical scan voting equipment shall contain a recommended arrangement of check-in tables, booths, the paths of travel for voters, and placement of electrical cords and connections to allow for (1) efficient flow of voters on Election Day, (2) maximum confidentiality and privacy while voting, and (3) maximum safety for voters and poll workers.
- (c) Vendors' proposals for heavy-duty optical scan voting equipment shall contain a recommended arrangement of placement of electrical cords and connections to allow for (1) efficient, accurate operation of the voting equipment during ballot tabulation periods and (2) maximum safety and ergonomic comfort for poll workers.

5.6 Services & Training

5.6.1 Services for Local Designated Election Officials

The preferred vendor shall coordinate the purchasing, training, acceptance testing, delivery, maintenance, and any necessary upgrade services directly with the contract of the local designated election official.

5.6.2 Services for CDOS

- (a) Provide a statement regarding the upgrade cycle including but not limited to;
 - (1) Anticipated frequency of updates;
 - (2) Support for update installation;
 - (3) How updates are distributed;
 - (4) How long support for older versions of software is maintained once new updates are deployed; and
 - (5) That the vendor will provide to CDOS a monthly report of devices delivered to each county under this contract along with a report of devices that have received any software or hardware upgrades.
 - (6) Provide a list of serial numbers of the delivered equipment to CDOS in the format specified in Rule 11 for equipment inventory.
- (b) The vendor's proposed system shall include a complete hardcopy set of (1) technical documentation, (2) database and application documentation, and (3) end user documentation that will be delivered and considered as an integral part of the system. Vendors' proposals shall state clearly a commitment to provide this quantity of documentation.
- (c) Vendors' proposals shall include a listing of all collateral documentation that will be provided to each jurisdiction, including but not limited to (1) poll worker instruction pamphlets, (2) poll worker "flashcards" with quick instructions, and (3) handouts for voter and community education. Vendors' proposals shall state the numbers of pieces of

each of these types of documentation that will be provided as part of the installation and election preparation services rendered to each county as well as any cost involved for these items.

- (d) In addition to the description of the documentation content, vendors' proposals shall contain a detailed description of the firm's procedures and frequencies for providing updates to the documentation as hardware, software, network, and operational changes occur.

5.6.3 Ongoing support tracking and resolution

- (a) The proposal shall contain a cost and solution to provide a service level agreement through which the vendor proposes to provide on-going support and maintenance to the CDOS after conclusion of any agreed upon warranty period.
 - (1) The narrative of the proposed service level agreement shall include response times and the nature of the response that the contractor shall provide.
 - (2) Response time is defined as the maximum time period that will elapse between initial request for support from a Colorado State Election Staff member (and its acknowledgement by the contractor) and commencement of resolution by the contractor.
 - (3) The response time to a support request to the vendor is governed by the level of priority of the request as determined by CDOS, as follows:
 - (i) Severe: Critical functionality failure exists with excessive risk to the ability of the county to use the system. System or application catastrophic failure has occurred or is very likely to occur imminently.
 - (ii) High: Desired functionality is missing. There is a high risk that the application will not perform critical functions. The issue stops county election officials from performing a function. No work-around is available.
 - (iii) Medium/Low: Desired functionality is not as indicated in requirement, or the system misses election officials' expectations for delivering the functionality. Work-around is available. Some risk exists. May be inconvenient to the county election officials for a period of time not to exceed two weeks. OR--The matter is largely a cosmetic problem with no risk.
 - (4) Vendor's proposed service level agreement shall include three (3) levels of onsite and telephone software support to CDOS elections office for 7 X 24 coverage with varying levels of response time depending upon the priority established by the CDOS, during peak election periods (60 days prior to any election and 20 days after any election):
 - (i) Critical--immediate phone response, 1 hour phone response, 3 hours onsite response
 - (ii) High--4 hour phone response, 6 hours onsite response
 - (iii) Medium/Low--24 hour phone response, 48 hours onsite response

During off-peak periods (all times other than peak election periods):

 - (iv) Critical--1 hour phone response, 3 hours onsite response
 - (v) High--8 hour phone response, same day onsite response
 - (vi) Medium--24 hour phone response, 48 hours onsite response
 - (5) Vendor proposals shall contain a description of the escalation procedure that the firm will follow to handle support calls and assure a timely resolution of support and maintenance requests, satisfactory to the CDOS.

- (b) Vendor proposals shall contain a description of their proposed service level agreement for upgrades to the hardware, firmware, and software in a timely manner for changes required by law in regards to all system functions.
 - (1) Vendor proposals shall include a description of specific plans to provide state and federal mandated system changes. Vendor proposals shall contain a description of their service level agreement to provide periodic hardware, firmware, and software updates for enhancements requested by the State of Colorado or the county elections office.
 - (2) Vendor's proposed service level agreement shall include a description of the contractor's software enhancement program including a regular schedule of software updates.
- (c) Vendors proposals shall contain a detailed list of the types of reports that will be provided to the CDOS on a monthly basis covering all service and maintenance calls to counties that will be covered under this agreement.

5.7 Training

- 5.7.1 The vendor shall provide an extensive training program on all phases and processes needed to operate all aspects of the voting solution. This training shall be sufficient to the point that State and local election personnel shall be able to operate the system without continuous support from a vendor. Training shall cover all aspects of using the voting solution.
- 5.7.2 A complete training schedule for state election officials shall be provided to the CDOS with the proposal. The requirements for training are for a minimum of 2 state election employees for at least 10 business days at the vendor's choice of location for training.
- 5.7.3 The proposed description should include, but is not limited to, specific training for the following:
 - (a) Programming of the Voting System units
 - (b) Preparation of each Voting System unit
 - (c) Preparation of county elections office to accept Voting System devices
 - (d) Preparation of alternate voting sites
 - (e) Tabulation of results
 - (f) Voting System software used at the central counting station
 - (g) Methods of ensuring the accuracy of precinct results
 - (h) Full understanding of the audit procedures
 - (i) Records preservation
 - (j) Printing, designing and reformatting election reports
 - (k) Safeguards to prevent and detect tampering or theft
 - (l) Training on the interface to/from statewide voter registration system.
 - (m) Setting up and testing all aspects of the Voting System.
 - (n) Suggestions for precinct set-up
 - (o) Operation of the voting device and Election Management Software from start to finish
 - (p) Programming the Election Management software for the various types of ballot casting methods in Colorado to include: Absentee, Early, Poll Place, Vote Center, and Provisional voting.
 - (q) Processing of voters and/or ballots.
 - (r) Troubleshooting methods to immediately identify and resolve any problems
 - (s) The opening and closing of alternate voting sites throughout the election
 - (t) Printing of zero counts before voting begins

- (u) Assisting voters who require help while in the voting process. Specifically address: changing font size, changing color or contrast, using puff-sip or switch or other assistive devices, etc.
- (v) Using the battery back up during electrical failure
- (w) Taking a malfunctioning piece of the Voting System out of service
- (x) Preserving all votes cast prior to malfunction
- (y) Closing the polls and producing results in any of the methods available for that particular device
- (z) How and when to place service calls
- (aa) Training materials for use by election personnel when conducting educational outreach programs
- (bb) Assistance with pre-election training of election staff, election boards, and volunteers prior to any primary, special and general elections in 2006,
- (cc) Assistance in receiving and testing the proposed voting system equipment,
- (dd) Assistance in conducting the user acceptance testing on all proposed hardware, firmware, software, and documentation, and
- (ee) Assistance in programming the proposed system for use in the 2006 Primary or General Election (depending upon the schedule for implementation selected by each county),
- (ff) Training levels shall encompass system administrator, end user, voting technician, and voter levels.
- (gg) Additional training items requested by CDOS.

5.7.4 Online Help Feature

- (a) The vendor's proposed election management and vote tabulation system shall include an online, indexed "help" capability to assist users and administrators in finding information relative to system and application functions and operations.
- (b) All online documentation shall be resident on the county elections office servers and/or client workstations. This section of the requirement means that the documentation shall not be solely resident on the vendor's website for access by the county elections office. (Vendors shall indicate in their narrative responses the degree to which their proposed system contains an online, context-sensitive "help" capability. Provision of a context-sensitive "help" capability is NOT mandatory.)

5.7.5 County Elections Staff Training

- (a) Vendors' proposals shall propose a schedule and create content for a training course to be provided to not more than five (5) county elections staff members in use of the proposed system to (a) setup elections and ballots, (b) maintain the security and integrity of the system during use in elections, (c) troubleshoot problems typically encountered in use of the system during election cycles, and (d) tally and tabulate vote results, and (e) report results. The proposal shall include a description of the proposed number of days of training and the main technical and functional areas that will be covered in the training.
- (b) The vendors' proposals can specify that the onsite technical consultants provided by the vendor to the county elections office will serve as instructors for this training.
- (c) Subject to final approval and acceptance by the county elections office, the proposed schedule and course content shall be designed to allow successful operation of the system's hardware and software without further vendor support.
- (d) Coordination of all training will be handled by the County election official.

5.8 Security Requirements

5.8.1 Configuration Management

- (a) Vendors shall provide a discussion of their code development process and tools used to test for security and consistency of operating system procedures and system architecture wherever applicable. Also provide information about your product and production facilities standing with regard to applicable ISO standards.
- (b) Also discuss the change control process documentation and how you track adherence to development practices and architecture rules.
- (c) Vendors' proposals shall specify their firm's internal quality assurance and configuration management policies and practices. Specifically, the proposals shall discuss steps taken to assure that (a) their system will meet the County's business and functional requirements when delivered, installed, and accepted, (b) their system will continue to meet those requirements as they change, and (c) provided updates will not "regress" or otherwise interfere with County operations.
- (d) The proposals shall present a detailed listing, with examples, of quality assurance, configuration management, and company-prepared system test documentation that will be provided to a County elections office with each new hardware, firmware, or software release and upgrade to demonstrate points (a), (b), and (c) in the above paragraph.

5.8.2 Audit

- (a) Vendors in their proposals shall list and discuss (1) the nature of annual, internal security audits undertaken of their voting systems software and voting systems software development processes and (2) quality process and security certifications held by their staff members who have direct responsibility for work on or with the voting system software development and maintenance team.

5.8.3 Configuration Control

- (a) Vendors' proposals shall contain a detailed description of the configuration control and management software used by the vendor to assure that only correct, tested and certified versions of firmware and software are delivered and installed in Colorado at all times. If the vendor uses internally developed software to manage its voting system configuration, the proposal shall state that condition and provide a general description of the software. If the vendor uses a commercial software product for its configuration control and configuration management, the proposal shall provide the name of the commercial configuration control software in use. Under either circumstance, the vendor shall state how long it has used the in-house or commercial configuration control software.

5.8.4 Procedures and Administration

- (a) Vendors' proposals shall describe steps their project team will take during EACH PHASE of delivering the goods and services required for each county's voting system to assure the highest possible level of information system security. Vendors' proposals shall discuss in detail:
 - (1) The steps the vendor shall take and documentation they will provide to assure security (including system confidentiality, integrity, and availability) is built into the (i) systems hardware, (ii) systems firmware, (iii) database, and (iv) software designs,
 - (2) The steps the vendor shall take during administrator training, user training, and system installation to promote good information system security awareness and procedures,

- (3) The steps the vendor shall take to assist each County elections office in developing an information system security plan and business continuity plan for the county's voting system,
 - (4) The specific experience of members of the vendor's proposed team in implementing information system security procedures in other voting system and information system projects, and
 - (5) The specific training and certification of members of the vendor's proposed team in the areas of information system security and business continuity planning.
- (b) Among the steps listed in subparagraph (a), above, vendors' proposals shall include a discussion of the encryption/decryption software and processes included in the vendor's proposed system that will cover all data transmissions in the proposed voting systems' (i) DRE devices, (ii) medium-duty optical scan devices, (iii) heavy-duty optical scan devices, (ii) system controllers (if any), and (iii) County vote tabulation server.
- (c) The State of Colorado requires that vendor's responses to this question be included in a completely separate section of the proposal labeled "SYSTEM SECURITY INFORMATION: CONFIDENTIAL." To the extent permitted under Colorado State Law and consistent with sound information system security practices, the State of Colorado and Colorado's counties shall refrain from releasing the responses to this requirement as public information.

5.8.5 System Access

- (a) The State of Colorado requires a very high level of security for the database management system that supports the election management and vote tabulation application.
- (b) The vendor's software solution for election management (such as election and ballot setup) and vote tabulation shall provide a database security management capability that allows up to two persons, identified by each County elections office, to act as security and recovery managers, controlling access and authorization privileges for all other users. These users will be the system administrators.
- (c) It shall be the responsibility of the vendor to specify and implement this security capability during the implementation. It shall be the responsibility of the vendor to implement the database management system in such a manner that no one can circumvent the application software to gain unauthorized or un-audited access to the underlying database.
- (d) For example, the vendor's final implementation shall prohibit a computer user, who is not an authorized user of the election management and vote tabulation system, from loading a software package such as Microsoft Access or Microsoft Excel on the computer running the election management system and gaining any kind of access to the election management system or vote tabulation system.

5.8.6 Password Management

- (a) Vendors' proposals shall state a clear, unequivocal commitment that the election management and voter tabulation software user's application password is separate from and in addition to any passwords required by the network operating system, a server, and the client operating system.
- (b) The vendor's system shall support automated application password expiration at intervals specified by a central system administrator. Vendors' proposals shall discuss the steps required by the system administrator to implement and maintain automated password expiration. This discussion will include narrative concerning the degree to which the application password expiration capabilities are based on (a) the server or client's operating system, (b) the software application, or (c) both.
- (c) Vendors' proposals shall describe in detail the system's requirements for the application's password construction including, but not limited to, (i) application password length

requirements, (ii) required character composition of application passwords, (iii) prohibited characters in application passwords, (iv) whether the application passwords are stored in clear text or encrypted formats, (v) which industry standards, if any, were applied in the design and implementation of application password encryption algorithms, (vi) whether the application allows or prohibits application password recycling within specific time periods, and (vii) the nature of the password recycling requirements, if any, in individual user application password use.

5.8.7 Encryption

- (a) Vendors shall specify all points at which voting setup data, passwords, and voting data are stored and transmitted in (1) clear text or (2) encrypted formats. Vendors shall specify the level of encryption (for example, 128 bit) and all encryption standards used in their voting systems.

5.9 Systems Administration and Warranty

- 5.9.1 Vendors' proposals shall provide the number of months for which it shall provide a no-cost warranty for the system, software, and services delivered to any county under the terms of this contract. The warranty period shall begin on the first day after a county elections office in Colorado issues an acceptance certificate for the installed system which will occur after the system completes the receiving County's User Acceptance Test AND after the receiving county certifies the results of a Federal election in which the County used the voting system.
- 5.9.2 Vendors' proposals shall provide the number of months for which it shall provide a no-cost warranty for the system, software and services delivered to CDOS under the terms of this contract. The warranty period shall begin on the first day after the CDOS issues an acceptance certificate for the installed system which will occur after the system completes and the CDOS User Acceptance test AND after the CDOS Certifies the results of a Federal election in which any County used the voting system.
- 5.9.3 Vendors' proposals shall provide a detailed description of the type, level, and limitations of system support to be provided at no cost during the warranty period. Support shall include at least software maintenance, upgrades, versions, documentation revisions and updates, corrections, preventative maintenance; help line support, and remote support services.
- 5.9.4 Vendors' proposals shall identify the contact person and information both at a primary location, field location, and cell phone connectivity to person(s) that will provide regional support, if any. If support will be provided by a subcontractor, vendor proposals shall identify the subcontracting organization(s) or person(s), providing also the physical locations and telephone numbers for the subcontractor.
- 5.9.5 Submittals will describe minimum maintenance and support included with the proposed voting system and its components. Vendor's will provide four (4) complete sets of user and technical documentation for all hardware and components required to operate each System for the CDOS and each local Election Official, in both printed and in an electronic format. The description should include, but not be limited to, the following items:
 - (a) Minimum warranty for all Voting System hardware and software, regardless of whether this warranty period for any piece of equipment and software shall extend beyond the term of the Contract as described in this RFP
 - (b) Acceptance testing documentation (method and results)
 - (c) Software upgrades, as well as all hardware and software patches to repair defects in the System

- (d) All certified software upgrades, as well as certified hardware and software patches to repair defects in the System, provided for the term of the Contract
- (e) Access to review, test or validate all code against installed versions as requested by the Secretary
- (f) How Vendor will implement System modifications that ensure compliance with the updates or changes to the Voting Systems Standards required by HAVA, other Federal laws and State law.
- (g) If requested by the State, compliance with the updates or changes to the Voting System Standards required by the Elections Assistance Commission
- (h) Process for submission of modifications for ITA or State re-qualification testing
- (i) Assurance for uniformity of installed base of all Statewide systems of the proposed voting system process of notification of the Secretary and re-certification, as required by the Secretary and tested by an ITA, of any and all System modifications made on behalf of jurisdictions outside the State of Colorado
- (j) Assurance of well-trained support personnel that are fluent in the English language for all activities that are the Vendor's responsibility
- (k) Guaranteed uptime of at least 99.99% (four nine's) during the Peak Election Period and remedies for less than the guaranteed uptime
- (l) All provisions for providing the hardware warranty and maintenance services outlined within this RFP
- (m) Service level agreements for all software updates to all System functions for changes required by law. Include a description of plans to provide State and federal mandated System changes
- (n) Proposed hardware enhancement strategy including the proposed schedule of System updates and maintenance
- (o) Proposed minimum service level agreement for hardware and software during Peak Election Periods including:
 - (i) Telephone response time to requests
 - (ii) On-site response time (with the necessary crash kit)
 - (iii) Availability of service
 - (iv) Timeline for Vendor to correct errors
 - (v) Remedies for failure to meet service levels
- (p) Proposed minimum service level agreement for hardware and software during non-Peak Election Periods including:
 - (i) Telephone response time to requests
 - (ii) On-site response time (with the necessary crash kit)
 - (iii) Availability of service
 - (iv) Timeline for Vendor to correct errors
 - (v) Remedies for failure to meet service levels
- (q) Strategy to meet the proposed minimum service.
- (r) Detail of all available levels of service
- (s) Process for tracking, monitoring, and fulfilling all maintenance calls regarding the voting system.
- (t) Description of Vendor's maintenance center services
- (u) Location(s) of all service centers, including call centers that will support the Colorado implementation plan for the proposed voting system.
- (v) Process for adding individual voting system devices to or deleting devices from the list of voting systems to be maintained
- (w) Staffing, both in numbers and qualifications, of all local and remote offices serving Colorado. Detail all specific manufacturer certifications (relative to this Proposal) held by the service technicians for each location

- (x) Manner and schedule under which preventive maintenance on hardware normally is performed for a project of this scope

5.10 Escrow

- 5.10.1 Vendors' proposals shall discuss the firms' experience with archiving digitally signed versions of its (1) source code and (2) executable code for both firmware and software versions in nationally recognized and industry-accepted archival facilities. The proposals shall provide a statement whether any election jurisdiction has used the digitally signed software versions to compare against versions installed in the election jurisdiction for production use.
- 5.10.2 Vendors' proposals shall contain a list of all election jurisdictions that have conducted security risk assessments, security management assessments, or source code security reviews of the vendors' proposed voting systems or their components. The list shall include reviews conducted by election jurisdictions, whether by internal election staff or by independent third-party agents. The proposals shall discuss actions taken to mitigate security vulnerabilities and risks that those reviews identified.
- 5.10.3 Vendors' proposals shall contain a description of and commitment to the firm's procedures for periodically depositing the complete source code of all software and firmware provided for use in the State of Colorado according to the details identified in Secretary of State Rule 11, and Title 1, C.R.S.

6. Appendices

- A. State of Colorado RFP Cover Sheet**
- B. Clarification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions**
- C. Certification of Compliance with the Requirements of the Federal Drug-Free Workplace Act of 1988**
- D. Certification Regarding Lobbying**
- E. Tobacco Free Certification**
- F. Election Rule 45 – Voting System Certification Standards**
- G. Colorado Voting Systems Inventory by County**
- H. Colorado County Seat Map**
- I. Colorado County Election Statistics for 2004**
- J. Preferred Vendor Contract Terms and Conditions**
- K. Vendor Proposal Pricing Tables**

APPENDIX A

State of Colorado RFP Cover Sheet



State of Colorado Request For Proposal (RFP) Cover Sheet

SEALED RESPONSES MUST BE MAILED OR DELIVERED TO:

Department of State
1700 Broadway
Suite 270
Denver, CO 80290

SOLICITATION NUMBER:	DEADLINE / DUE DATE AND TIME:
CDOS-HAVA-2005-001	November 4 th , 2005 2:00 PM MOUNTAIN TIME
PURCHASING CONTACT:	PHONE NUMBER:
John Gardner	303-894-2200 xt. 6318

BIDDERS MUST SUBMIT **ONE** (1) ORIGINAL PLUS **EIGHT** (8) COPIES OF THEIR PROPOSAL AND ONE ELECTRONIC COPY.

PER ALL ATTACHMENTS INCLUDED WITH THIS REQUEST FOR PROPOSALS (RFP).

F.E.I.N. _____
DELIVERY DATE _____
TERMS _____ (MUST BE AT LEAST NET 30 DAYS)
SIGNATURE _____
TYPED/PRINTED NAME _____
TITLE _____
COMPANY NAME _____
ADDRESS: _____
CITY/STATE/ZIP _____
PHONE: _____ FAX: _____

IMPORTANT: THE FOLLOWING INFORMATION MUST BE ON THE OUTSIDE OF THE RFP SUBMITTAL ENVELOPE:

VENDOR NAME
SOLICITATION Number
PROPOSAL DUE Date and Time

Please be advised that telegraphic or electronic responses (Fax, Western Union, Telex, etc.) cannot be accepted as a sealed proposal. Bidders are urged to read the document thoroughly before submitting a response.

A representative of the vendor who is legally authorized to bind the offeror to the proposal must sign response. All vendor(s) will be required to submit confirmation of an F.E.I.N. number prior to any issuance of Contracts, Purchase Orders, or payments resulting from this RFP.

APPENDIX B

Clarification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

**Certification Regarding Debarment, Suspension, Ineligibility
and
Voluntary Exclusion-Lower Tier Covered Transaction**

Instructions for Certifications

1. By signing and submitting its proposal and signing this contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted or with whom this contract is made for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting its proposal and signing this contract that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal and signing this contract that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transaction.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other

remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal and execution of this contract, that neither it nor its principals is presently declared ineligible, or voluntarily excluded from participation in this transaction by a Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its proposal.

APPENDIX C

Certification of Compliance with the Requirements Of the Federal Drug-Free Workplace Act of 1988

Drug-Free Workplace Certifications

Alternate I. (Contractors/Grantees Other Than Individuals)

- A. The grantee/contractor certifies that it will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 2. Establishing an ongoing drug-free awareness program to inform employees about-
 - a) The dangers of drug abuse in the workplace;
 - b) The grantee's policy of maintaining a drug-free workplace;
 - c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 3. Making it a requirement that each employee to be engaged in the performance of the grant/contract be given a copy of the statement required by paragraph 1;
 4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant/contract, the employee will:
 - a) Abide by the terms of the statement; and
 - b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 5. Notifying the agency in writing, within ten calendar days after receiving notice under paragraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant/contract activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant/contract;
 6. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph 4(b), with respect to any employee who is so convicted:
 - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1,2,3,4,5, and 6.

B. The grantee/contractor may insert in the space provided below the site(s) for the performance of work done in connection with this grant/contract:

Alternate II. (Contractors/Grantees Who Are Individuals)

1. The grantee/contractor certifies that, as a condition of the grant/contract, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant/contractor;
2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant/contract activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant/contract.

APPENDIX D

Certification Regarding Lobbying

Certification Regarding Lobbying

(Certification for Contracts, Grants, Loans, and Cooperative Agreements)

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an office or employee of any agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3 The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

APPENDIX E

Tobacco Free Certification

Tobacco Free Certification

Public Law 103-227, the Pro-Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by any entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided by private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. By submitting and signing the application and this contract, the contractor certifies that it will comply with the requirements of the Act. The contractor further agrees that it will require the language of this certification to be included in any subawards (or subcontracts) which contain provisions for children's services and that all subgrantees (or subcontractors) shall certify and perform accordingly.

APPENDIX F

Election Rule 45 Voting System Certification Standards

Rule 45. Rules Concerning Voting System Standards for Certification

45.1 Definitions

The following definitions apply to their use in this rule only, unless otherwise stated.

- 45.1.1 “Audio ballot” means a voter interface containing the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote at an election and that provides the voter with audio stimuli and allows the voter to communicate intent to the voting system through vocalization or physical actions.
- 45.1.2 “Audit log” means a system-generated record, in printed format, providing a record of activities and events relevant to initialization of election software and hardware, identification of files containing election parameters, initialization of the tabulation process, processing of voted ballots, and termination of the tabulation process.
- 45.1.3 “Ballot Image” means a corresponding representation in electronic form of the marks or vote positions of a ballot.
- 45.1.4 “DRE” means a direct recording electronic voting device. A voting device that records votes by means of a ballot display provided with mechanical or electro-optical components that can be activated by the voter; that processes data by means of a computer program; and that records voting data and ballot images in memory components. It produces a tabulation of the voting data stored in a removable memory component and as printed copy. The device may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from precincts at the central location.
- 45.1.5 “EAC” means the United States Elections Assistance Commission.
- 45.1.6 “Election media” means any device including a cartridge, card, stick, or hard drive used in a voting system for the purposes of programming ballot image data (ballot or card styles), recording voting results from electronic vote tabulating equipment, or any other data storage needs required by the voting system for a particular election function.
- 45.1.7 “Equipment” or “device” means a complete, inclusive term to represent all items submitted for certification by the voting system provider. This can include, but is not limited to any voting device, accessory to voting device, DRE, touch screen voting device, card programming devices, software and hardware, as well as a complete end to end voting system solutions.
- 45.1.8 “FEC” means the Federal Election Commission.
- 45.1.9 “ITA” means an independent test authority that provides engineering, testing, or evaluation services, certified by the National Association of State Election Directors (NASD) as qualified to conduct qualification testing on a voting system.
- 45.1.10 “NASD” means the National Association of State Election Directors.

- 45.1.11 "Remote site" means any physical location identified by a designated election official as a location where the jurisdiction shall be conducting the casting of ballots for a given election. A remote site includes locations such as polling places (precinct voting), vote centers, early voting, absentee ballot counting, etc.

45.2 Introduction

45.2.1 Definition of voting system for certification purposes

The definition of a voting system for the purposes of this rule shall be defined as the term is defined in HAVA section 301(b). For Colorado purposes, no single component of a voting system, such as a precinct tabulation device, meets the definition of a voting system.

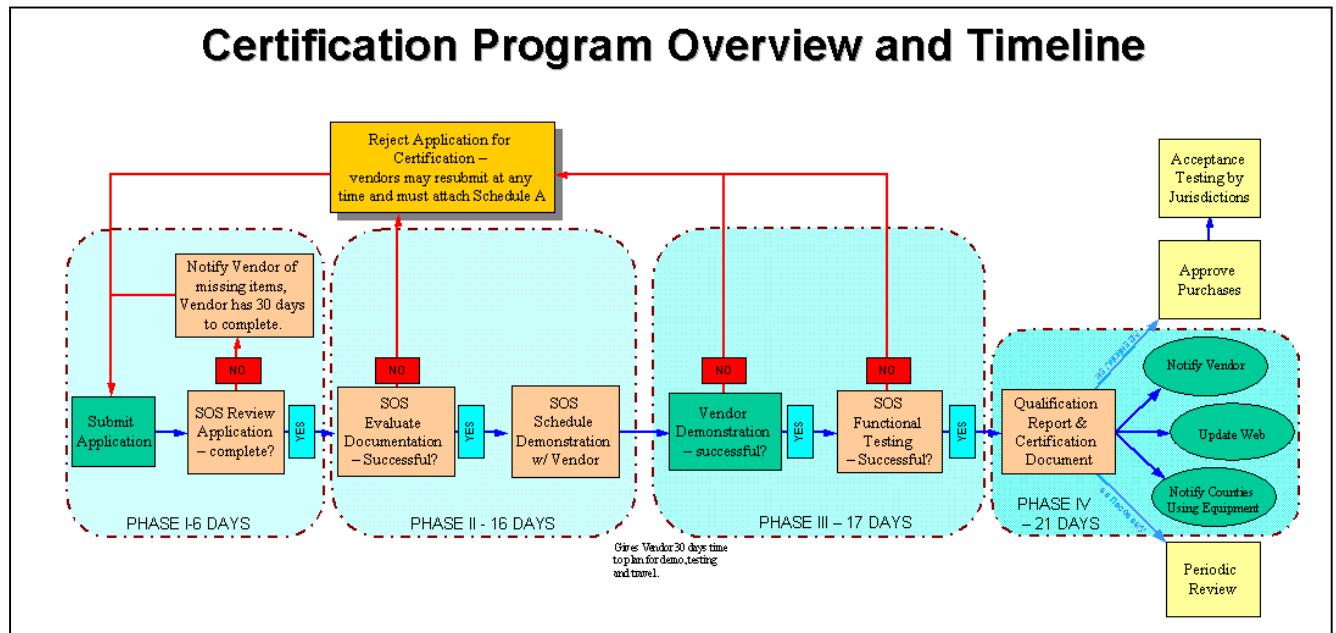
Sufficient components shall be assembled to create a configuration that shall allow the system as a whole to meet all the requirements described for a voting system in this publication.

45.2.2 Authority

- 45.2.2.1 Pursuant to Article 5 and 7 of Title 1 C.R.S., the Secretary of State is expressly authorized to adopt this rule.
- 45.2.2.2 Certifications issued prior to this date shall be considered valid provided the voting system provider provides documentation of meeting the requirements of HAVA section 301(a).

45.3 Certification Process Overview and Timeline

- 45.3.1 The voting systems shall be considered as a unit, and all components of such systems shall be tested at once, unless the circumstances necessitate otherwise (e.g. retrofitted V-VPATs, etc.). Any change made to individual components of a voting system shall require re-certification of the changed component in accordance with this rule.
- 45.3.2 For a voting system to accomplish certification the voting system provider shall successfully complete all phases of the certification process that shall include: submitting a complete application, successful review of the documentation to evaluate if the system meets the requirements of this rule, successful demonstration of the system, followed by successful completion of items determined mandatory in the functional testing section of this rule.
- 45.3.3 The following Milestones indicate the flow of the certification process – see timeline below:
- (a) Phase I – 6 days maximum. Voting system provider submits application and SOS reviews for completeness. Voting system provider shall have 30 days to remedy and make application complete.
 - (b) Phase II – 16 Days maximum. SOS evaluates the documentation submitted and upon successful completion makes arrangement with voting system provider for Demonstration.
 - (c) Phase III – 17 days maximum. When Demonstration is complete, SOS begins the functional testing.
 - (d) Phase IV – 21 days maximum. Upon completion of testing, SOS produces a qualification report and applicable certification document.



45.4 Application and Certification procedure

- 45.4.1 Any voting system provider may apply to the SOS for certification at any time.
- 45.4.2 A voting system provider that submits a voting system for certification shall complete the SOS's "Application for Certification of Voting System".
- 45.4.3 Along with the application, the voting system provider shall submit all the documentation necessary for the identification of the full system configuration submitted for certification. This documentation shall include information that defines the voting system design, method of operation, and related resources. It shall also include a system overview and documentation of the voting system's functionality, accessibility, hardware, software, security, test and verification specifications, operations procedures, maintenance procedures, and personnel deployment and training requirements. In addition, the documentation submitted shall include the voting system provider's configuration management plan and quality assurance program.
- 45.4.4 Where applicable, electronic copies of documentation are preferred and may be submitted in lieu of a hard copy.
- 45.4.5 All materials submitted to the SOS shall become the property of the SOS upon submission.
- 45.4.6 In addition to the application and the documentation specified above, the SOS may request additional information from the applicant, as deemed necessary by the SOS.

45.5 Voting system standards

45.5.1 Federal Standards

- 45.5.1.1 Pursuant to §1-5-601.5 C.R.S. and Rule 37.3 the voting system and voting equipment offered for sale on or after May 28, 2004 shall meet the voting systems standards promulgated in 2002 by the FEC and that may hereafter be promulgated by the EAC.
- 45.5.1.2 All voting system software, hardware, and firmware shall meet all requirements of federal law that address accessibility for the voting system. These laws include, but are not necessarily limited to, (a) the Help America Vote Act, (b) the Americans with Disabilities Act, and (c) the Federal Rehabilitation Act. These

acts apply not only to the assistive voting devices, but also to the capabilities of other components of the voting system such as the election management system and the vote tabulation system. The voting system provider shall acknowledge explicitly that their proposed software, hardware, and firmware are all in compliance with the relevant accessibility portions of these laws.

45.5.2 State Standards

45.5.2.1 Functional requirements shall address any and all detailed operation of the voting system related to the management and controls required to accomplish the successful conduction of an election on the voting system.

45.5.2.1.1 The voting system shall exhibit an evolution towards new technologies, and have the appearance of being voter and/or user friendly as defined in the EAC document: "Improving the Usability and Accessibility of Voting Systems and Products."

45.5.2.1.2 Voting system shall have the functional capabilities of:

- (a) Prepare the system for an election
- (b) Setup and prepare ballots for an election
- (c) Lock and unlock system to prevent or allow changes to ballot design
- (d) Conduct hardware and diagnostics testing as required herein,
- (e) Conduct logic and accuracy testing as required herein,
- (f) Conducting an election and meeting additional requirements as identified in this section for procedures for voting, auditing information, inventory control, counting ballots, opening and closing polls procedures, recounts, reporting, and accumulating results as required herein,
- (g) Conduct the post election audit as required herein; and
- (h) To preserve the system for future election use.

45.5.2.1.3 The voting system shall easily and accurately integrate Election Day voting results with absentee, early voting as well as provisional ballot results.

45.5.2.1.4 The voting system shall be able to count all of an elector's votes on a provisional ballot or only federal and statewide offices and statewide ballot issues and questions, as provided under §1-8.5-108(2) C.R.S.

45.5.2.1.5 The voting system shall provide for the voting of multiple ballot styles for a single precinct and shall provide for the tabulation of votes cast in split precincts where all voters residing in one precinct are not voting the same ballot style.

45.5.2.1.6 The voting system shall provide for the tabulation of votes cast in combined precincts at remote sites, where more than one precinct is voting at the same location, on either the same ballot style or a different ballot style.

45.5.2.1.7 The voting system shall provide authorized users with the capability to produce electronic files in ASCII (both comma-delimited and fixed-width) format that shall contain (a) all data or (b) any user selected data elements from the database. The software shall provide authorized users with the ability to generate these files on an on-demand basis. After creating such a file, the authorized users shall, at their discretion, have the capability to copy the file to diskette, tape, or CD-ROM or to transmit the file to another information system.

45.5.2.1.8 The voting system shall include hardware and software required to enable the closing of the voting location and disabling acceptance of ballots shall be required on all vote tabulation devices:

- (a) Machine-generated paper record of the time the voting system was closed.

- (b) Readings of the public counter and/or protective counter shall become a part of the paper audit record upon disabling the voting system to prevent further voting.
 - (c) Ability to print an abstract of the count of votes to contain:
 - Names of the offices
 - Names of the candidates and party when applicable
 - The system can tabulate votes from ballots of different political parties at the same voting location in a primary election
 - Ballot titles
 - Submission clauses of all initiated, referred or other ballot issues
 - The number of votes counted for or against each candidate or ballot issues
 - (d) Abstract shall include a Judge's certificate and statement that contains:
 - Date of election (day, month and year)
 - Precinct number (ten digit format)
 - County or jurisdiction name
 - State of Colorado
 - Count of votes as indicated in this section
 - Area for Judges signature with the words similar to: "Certified by us", and "Election Judges". Space should allow for a minimum of two signatures.
 - (e) Votes counted by a summary of the voting location, and by individual precincts.
 - (f) Allow for multiple copies of the unofficial results at the close of the election.
- 45.5.2.1.9 Voters voting on DRE devices shall be able to navigate through the screens without the use of page scrolling. Features such as next or previous page options shall be used.
- 45.5.2.1.10 The system shall be tested to ensure that an election setup may not be changed once ballots are printed and/or device media is downloaded for votes to be conducted.
- 45.5.2.1.11 The system shall be able to receive programming information from the Statewide Voter Registration System in EML format.
- 45.5.2.1.12 The system shall be able to export the results in either a web based format, or a delimited file (text, CSV, etc.) for use in other applications.
- (a) Exports necessary for the SOS shall conform to EML format.
 - (b) Export files shall be generated to communicate results from the election jurisdiction to the SOS on election night both during the accumulation of results and after all results have been accumulated.
- 45.5.2.2 Performance level shall refer to any operation related to the speed and efficiency required from the voting system to accomplish the successful conduction of an election on the voting system.
- 45.5.2.2.1 The voting system shall meet the following requirements for counting ballots:
- (a) Optical Scan Ballots at Voting Location(s) = 100 ballots per hour min.
 - (b) DRE / Touch Screen = 20 ballots per hour min.
 - (c) Central Count Optical Scan Ballots = 100 ballots per hour min.
- 45.5.2.2.2 For the purposes of evaluating software, the voting system provider shall be required to provide detailed information as to the type of hardware that

proposed software would be run on. The performance level shall be such that a user of the software would have minimal pauses in the system during the ballot design and creation, along with the downloading and uploading of election media devices. Specifically, the following minimum standards are required:

- (a) Ballot style assignment is less than 10 sec per ballot style
 - (b) Election media download is less than 35 sec. per media
 - (c) Election media upload is less than 20 sec. per media
 - (d) View ballot image (on screen) is less than 30 sec. per ballot image
- 45.5.2.2.3 At no time shall third party hardware or software impact performance levels, unless a voting system provider specifically details through documentation the specific hardware or software, the performance impact, and a workaround for the end user to overcome the issue.
- 45.5.2.3 Physical and design characteristics shall address any and all external or internal construction of the physical environment of the voting system, or the internal workings of the software necessary for the functioning of the voting system to accomplish the successful conduction of an election on the voting system.
- 45.5.2.3.1 The physical design of the proposed system (non-software) shall be in a way such that it enhances or assists in the “voter friendly” aspect of voting, as well as meet the requirements indicated in section 4 of the “Usability and Accessibility of Voting Systems and Products” study conducted by NIST. A copy of the document is located on our web site.
- 45.5.2.3.2 The voting system shall meet the following Environmental Controls allowing the storage and of operation in the following physical ranges:
- Operating- Max. 100 Degrees Fahrenheit; Min. 40 Degrees Fahrenheit, with max. humidity of 90%, normal or minimum operating humidity of 15%.
 - Non-Operating – Max. 130 Degrees Fahrenheit; Min. –15 Degrees Fahrenheit. Non-operating humidity ranges from 5% to 90% for various intervals throughout the day.
- The material supplied by the applicant shall include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service, and any other facility or resource required for the installation, operation, and storage of the voting system.
- 45.5.2.3.3 The ballot definition subsystem of the voting system consists of hardware and software required to accomplish the functions outlined below. System databases contained in the ballot definition subsystem may be constructed individually, or they may be integrated into one database. These databases are treated as separate databases to identify the necessary types of data that shall be handled, and to specify, where appropriate, those attributes that can be measured or assessed for determining compliance with the requirements of this standard.
- 45.5.2.3.4 The ballot definition subsystem shall be capable of formatting ballot styles in multiple languages, including English and Spanish. The subsystem shall be capable of being updated to format ballot styles in additional language changes necessary by State or federal law.
- 45.5.2.3.5 The voting system shall allow the user to generate and maintain an administrative database containing the definitions and descriptions of political subdivisions and offices within the jurisdiction.
- 45.5.2.3.6 The ballot definition subsystem shall provide for the definition of political and

- administrative subdivisions where the list of candidates or contests may vary within the remote site and for the activation or exclusion of any portion of the ballot upon which the entitlement of a voter to vote may vary by reason of place of residence or other such administrative or geographical criteria. This database shall be used by the system with the administrative database to format ballots or edit formatted ballots within the jurisdiction.
- 45.5.2.3.7 For each election, the subsystem shall allow the user to generate and maintain a candidate and contest database and provide for the production or definition of properly formatted ballots and software.
- 45.5.2.3.8 The environment in which all databases in the subsystem are maintained shall include all necessary provisions for security and access control. Any database may be generated and maintained in any file structure suitable to the requirements of the jurisdiction. It shall be the intent of the database hierarchy described herein to ensure that data entry, updating, and retrieval be effectively integrated and controlled.
- 45.5.2.3.9 The ballot definition subsystem shall be capable of handling at least 500 potentially active voting positions, arranged to identify party affiliations in a primary election, offices and their associated labels and instructions, candidate names and their associated labels and instructions, and issues or measures and their associated text and instructions.
- 45.5.2.3.10 The ballot display may consist of a matrix of rows or columns assigned to political parties or non-partisan candidates and columns or rows assigned to offices and contests. The display may consist of a contiguous matrix of the entire ballot, or it may be segmented to present portions of the ballot in succession.
- 45.5.2.3.11 The voting system shall provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest, and for special voting options such as write-in candidates. It shall provide for all voting options and specifications as provided for in Article 5 and 7, Title 1 C.R.S. The system shall generate all required masters and distributed copies of the voting program in conformance with the definition of the ballot for each voting device and remote site. The distributed copies, resident or installed in each voting device, shall include all software modules required to monitor system status and generate machine-level audit reports, to accommodate device control functions performed by remote location officials and maintenance personnel, and to register and accumulate votes.
- 45.5.2.3.12 All voting system software, installation programs, third party software (such as operating systems, drivers, etc.) used to install or to be installed on voting system devices shall be distributed on a write-once media.
- 45.5.2.3.13 The voting system shall allow the system administrator to verify that the software installed is the certified software by comparing it to reference information.
- 45.5.2.3.14 All DRE voting devices shall use touch screen technology or other technology providing accurate visual ballot display and selection. The voting system provider shall include documentation concerning the use of touch screen or other display and selection technology, including but not limited to:
- (a) Technical documentation describing the nature and sensitivity of the tactile device (if the system uses touch screen technology);
 - (b) Technical documentation describing the nature and sensitivity of any other technology used to display and select offices, candidates, or issues;
 - (c) Any mean time between failure (MTBF) data collected on the vote

- recording devices; and
- (d) Any available data on problems caused for persons who experience epileptic seizures due to the DRE voting devices' screen refresh rate.
- 45.5.2.3.15 The voting system shall contain a Control Subsystem that consists of the physical devices and software that accomplish and validate the following operations.
- (a) Voting system Preparation - The Control Subsystem shall encompass the hardware and software required to prepare remote location voting devices and memory devices for election use. Remote site preparation includes all operations necessary to install ballot displays, software, and memory devices in each voting device. The Control Subsystem shall be designed in such a manner as to facilitate the automated validation of ballot and software installation and to detect errors arising from their incorrect selection or improper installation.
- (b) Error Detection – the voting system shall contain a detailed list and description of the error messages that will appear on the voting devices, the controller (if any), the paper ballot printer, programmer, or any other device used in the voting process to indicate that a component has failed or is malfunctioning.
- 45.5.2.3.16 The voting system shall have a high level of integration between the ballot layout subsystem and the vote tabulation subsystem. This integration shall permit and facilitate the automatic transfer of all ballot setup information from the automated ballot layout module to the single ballot tabulation system that will be used in a fully integrated manner for DRE, optical scan, and any other voting devices included in the voting system.
- 45.5.2.3.17 The processing subsystem contains all mechanical, electromechanical, and electronic devices required to perform the logical and numerical functions of interpreting the electronic image of the voted ballot and assigning votes to the proper memory registers. Attributes of the processing subsystem that affect its suitability for use in a voting system, are accuracy, speed, reliability, and maintainability.
- (a) Processing accuracy refers to the ability of the subsystem to receive electronic signals produced by vote marks and timing information, to perform logical and numerical operations upon these data, and to reproduce the contents of memory when required without error. Processing subsystem accuracy shall be measured as bit error rate, which is the ratio of uncorrected data bit errors to the number of total data bits processed when the system is operated at its nominal or design rate of processing in a time interval of four (4) hours. The bit error rate shall include all errors from any source in the processing subsystem. For all types of systems, the Maximum Acceptable Value (MAV) for this error rate shall be one (1) part in one million (1,000,000), and the Nominal Specification Value (NSV) shall be one (1) part in one hundred million (100,000,000).
- (b) Memory devices that are used to retain control programs and data shall have demonstrated at least a ninety-nine and a half (99.5) percent probability of error-free data retention for a period of six months for operation and non-operation.
- 45.5.2.3.18 The reporting subsystem contains all mechanical, electromechanical, and electronic devices required to print reports of the tabulation. The subsystem

also may include data storage media and communications devices for transportation or transmission of data to other sites.

(a) Communications Devices - Devices that may be incorporated in or attached to components of the system for the purpose of transmitting tabulation data to another data processing system, printing system, or display device shall not be used for the preparation or printing of an official canvass of the vote unless they conform to a data interchange and interface structure and protocol that incorporates some form of error checking and auditing process control.

45.5.2.3.19 The approach to design shall be unrestricted, and it may incorporate any form or variant of technology that is capable of meeting the requirements of this rule, and other attributes specified herein.

(a) The frequency of voting system malfunctions and maintenance requirements shall be reduced to the lowest level consistent with cost constraints. Applicants are required to use MIL-STD-454; "Standard General Requirements for Electronic Equipment" that is hereby adopted and incorporated by reference, as a guide in the selection and application of materials and parts.

45.5.2.3.20 The voting system and all associated components shall have a useful life of at least eight 8 years.

45.5.2.3.21 The voting system provider shall submit drawings, photographs and any related brochure documents to assist with the evaluation of the physical design of the use of the voting system.

45.5.2.4 Documentation Requirements

45.5.2.4.1 In addition to Section 45.3 above, the voting system provider shall provide the following documents:

Standard issue Users/Operator Manual

System Administrator's Manual

Training Manual (and materials)

Systems Programming and Diagnostics Manuals

45.5.2.4.2 All ITA qualification reports that are material to the determination that a voting system may be certified shall be evaluated to determine if the test procedures, records of testing, and reporting of results meet the requirements of this rule.

45.5.2.4.3 Documentation submitted to the SOS shall be reviewed to ensure the Voting System meets the 2002 Voting Systems Standards. The submitted documentation shall include methods for implementing future releases and versions of the future standards.

45.5.2.5 Audit capacity

45.5.2.5.1 The voting system shall be capable of producing paper audit logs ("Audits", "audit reports", or "audit records"), generated by the system components, or in some cases, by the system operators, from which all operations may be audited. Except for the storage of vote images that shall be maintained in a random sequence, the audit records shall be created and maintained in the sequence in which the operations were performed.

45.5.2.5.2 The voting systems shall include detailed documentation as to the level, location and programming of audit trail information throughout the system.

The Audit information shall apply to:

(a) Operating Systems (workstation, server, and/or DRE)

- (b) Election Programming Software
- (c) Election Tabulation devices – optical scan and DRE
- 45.5.2.5.3 The system shall track and maintain audit information of the following events:
 - (a) Log on and log off activity
 - (b) Application start and stop
 - (c) Printing activity (where applicable)
 - (d) Election events – setup, set for election, unset for election, open polls, close polls, end election, upload devices, download devices, create ballots, create precincts, create districts, create poll places (or Vote Centers), voting activity, etc.
 - (e) Hardware events – add hardware, remove hardware, change hardware properties, etc.
- 45.5.2.5.4 All tabulation devices shall display the unit serial number(s) both physically and within any applicable software or PROM/ROM devices.
- 45.5.2.5.5 In the case that the vote tabulation device employs the use of removable memory storage devices, the devices shall allow for the transfer of audit trail if the device and/or memory storage device is damaged or destroyed.
- 45.5.2.6 Security Requirements
 - 45.5.2.6.1 The voting system provider shall provide documentation detailing voting system security in the areas listed below. At no time shall a system allow for unauthorized changes to system capabilities for:
 - (a) Defining ballot formats;
 - (b) Casting and recording votes;
 - (c) Calculating vote totals consistent with defined ballot formats; and
 - (d) Reporting vote totals;
 - (e) Alteration of voting system audit trails;
 - (f) Changing, or preventing the recording of, a vote;
 - (g) Introducing data for a vote not cast by a registered voter;
 - (h) Changing calculated vote totals;
 - (i) Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and
 - (j) Preventing access to voter identification data and data for votes cast by the voter such that an individual can determine the content of specific votes cast by the voter.
 - 45.5.2.6.2 The voting system provider shall submit to the SOS its recommended policies or guidelines governing:
 - (a) Software access controls;
 - (b) Hardware access controls;
 - (c) Communications;
 - (d) Effective password management;
 - (e) Protection abilities of a particular operating system;
 - (f) General characteristics of supervisory access privileges;
 - (g) Segregation of duties; and
 - (h) Any additional relevant characteristics
 - 45.5.2.6.3 The voting system shall include detailed documentation as to the security measures it has in place for all systems, applicable software, devices that act as connectors (upload, download, and other programming devices), and any security measures it recommends to the Jurisdictions that purchase the voting system.

45.5.2.7 Telecommunications Requirements

- 45.5.2.7.1 Telecommunications includes all components of the voting system that transmits data over public or private network communications. This includes wired, wireless, phone/modem, LAN and WAN connections.
- 45.5.2.7.2 All electronic transmissions across public networks shall be secured to a minimum of 40-bit encryption. The voting system provider shall provide documentation describing in detail all uses of data encryption/decryption in the proposed system.
- 45.5.2.7.3 Any system that incorporates wireless transmission must include a detailed security plan specific to the wireless protocol being deployed with the voting system. The detailed plan shall include specific instructions for end users of the system to incorporate that allow passwords and security keys to be set and/or generated by the end user.
- 45.5.2.7.4 All systems that transmit data over public telecommunications networks shall maintain a clear audit trail that can be provided to the SOS when election results are transmitted by telephone, microwave or any other type of electronic communication.
- 45.5.2.7.5 Systems designed for transmission of telecommunications over public networks shall meet security standards that address the security risks attendant with the casting of ballots from remote sites controlled by election officials using the voting system configured and installed by election officials and/or their voting system provider or contractor, and using in-person authentication of individual voters.
- 45.5.2.7.6 Any voting system provider of systems that cast individual ballots over a public telecommunications network shall provide detailed descriptions of:
 - (a) All activities mandatory to ensuring effective system security to be performed in setting up the system for operation, including testing of security before an election.
 - (b) All activities that should be prohibited during system setup and during the time frame for voting operations, including both the hours when polls are open and when polls are closed.

45.5.2.8 Accessibility Requirements

- 45.5.2.8.1 Specific minimum accessibility requirements include those specified in section §1-5-704 C.R.S., SOS Rule 34, Rule 35 and the following:
 - (a) Buttons and controls shall be distinguishable by both shape and color.
 - (b) Audio ballots shall meet the following standards:
 - 1. The voting system shall allow the voter to pause and resume the audio presentation.
 - 2. The audio system shall allow voters to control within reasonable limits, the rate of speech.
 - (c) No voting system or any of its accessible components shall require voter speech for its operation.
- 45.5.2.8.2 Documentation of the accessibility of the voting system shall include the following items at a minimum:
 - (a) If appropriate, voting booth design features that provide for privacy for the voter while voting (if a voting booth is not included with the system, then describe how voter privacy is accomplished).
 - (b) Adaptability of the proposed system for voters with disabilities as outlined in the Americans with Disabilities Act guidelines.
 - (c) Technology used by the voting system that prevents headset/headphone

interference with hearing aids.

- (d) Types and size of voice file(s) the voting system uses.
- (e) Method for recording, sharing and storing voice files in the voting system.
- (f) How paginating through viewable screens is accomplished if it is required with the voting system.
- (g) Multiple methods of voting to ensure access across the disabilities listed above to include push buttons, keypad, "puff-sip" tube, voice commands, touch screen, switches, and blink control devices.
- (h) Capabilities of the voting system to accurately accept a non-human touch as input on the touch screen.
- (i) User adjustability of color settings, screen contrasts, and screen angles/tilt if the system uses a display screen.

45.5.2.9 Voter-Verifiable Paper Record Requirements(V-VPAT)

V-VPAT shall refer to a Voter-verified paper record as defined in 1-1-104(50.6)(a).

- 45.5.2.9.1 Existing systems that are retrofitted to comply with this law shall be certified by the SOS. Any retrofitted voting system shall comply with the process and application for certification as identified by this rule.
- 45.5.2.9.2 The V-VPAT shall consist of the following minimum components:
 - (a) The voting device shall contain a Paper Audit Trail Writer or Printer that shall be attached, built into, or used in conjunction with the DRE. The printer shall duplicate a voter's selections from the DRE onto a paper copy.
 - (b) The unit or device shall have a Paper Record Display unit or area that shall allow a voter to view his or her paper copy.
 - (c) The V-VPAT unit shall contain a Paper Record Storage unit that shall store cast and spoiled paper record copies securely.
 - (d) These devices may be integrated as appropriate to their operation.
- 45.5.2.9.3 V-VPAT Devices shall allow the voter to verify his or her selections on a paper record copy prior to casting their ballot. The voter shall either accept or reject the choices represented on the paper record copy. Both the electronic record and the paper copy shall be stored and retained upon the completion of casting a ballot.
- 45.5.2.9.4 The V-VPAT printer connection may be any standard, publicly documented printer port (or the equivalent) using a standard communication protocol.
- 45.5.2.9.5 The printer shall not be permitted to communicate with any other device than the voting device to which it is connected.
- 45.5.2.9.6 The printer shall only be able to function as a printer, and not perform any other services or possess network capability.
- 45.5.2.9.7 Every electronic voting record shall have a corresponding paper copy.
- 45.5.2.9.8 The paper record shall be considered an official record of the election available for recounts, and shall be sturdy, clean and of sufficient durability to be used for this purpose.
- 45.5.2.9.9 The V-VPAT device shall be designed to allow every voter to review, accept or reject his/her paper record copy privately and independently in an "as normal" as possible method for both disabled and non-disabled voters.
- 45.5.2.9.10 The V-VPAT system shall be designed in conjunction with State Law to ensure the secrecy of votes so that it is not possible to determine which voter cast which paper record copy.
- 45.5.2.9.11 The V-VPAT printer shall print at a font size no less than ten (10) points for

- ease of readability. Any protective covering intended to be transparent shall be in such condition that it can be made transparent by ordinary cleaning of its exposed surface.
- 45.5.2.9.12 The V-VPAT system shall be designed to allow each voter to verify their vote on a paper record copy in the same language they voted in on the DRE.
- 45.5.2.9.13 The V-VPAT system shall be designed to prevent tampering with unique keys and/or seals for the compartment that stores the paper record copy, as well as meet the security requirements of this rule. Additional security measures shall be in place on the printer to prevent tampering with the device.
- 45.5.2.9.14 The V-VPAT system shall be capable of printing and storing paper record copies for at least 150 ballots cast without requiring the paper supply source, ink or toner supply, or any other similar consumable supply to be changed during the voting period, assuming a fully printed double sided eighteen (18) inch ballot.
- 45.5.2.9.15 The V-VPAT unit shall provide a “low supply” warning to provide a notice to the election judge to add paper, ink, toner, ribbon or other like supplies. In the event that an election judge is required to change supplies during the process of voting, the voter shall be allowed to reprint and review paper audit trail without having to revote his or her ballot, and the device shall prevent the election judge from seeing any voters’ ballots.
- 45.5.2.9.16 The voting system provider shall provide procedures and documentation for the use of the device.
- 45.5.2.9.17 The Printed information on the printed ballot or verification portion of the V-VPAT device shall contain at least the following items:
- (a) Name or header information of Race, Question or Issue
 - (b) Voter’s selections for the race information.
 - (c) Write-in Candidate’s names if selected.
 - (d) Undervote or overvote information – this is in addition to the information on the review screen of the DRE.
 - (e) Unique Serial Number (randomized to protect privacy)
 - (f) Identification that the ballot was cancelled or cast
- 45.5.2.9.18 The V-VPAT shall allow a voter to spoil their paper record copy no more than two (2) times. Upon spoiling, the voter shall be able to modify and verify selections on the DRE without having to reselect all of their choices.
- 45.5.2.9.19 Before the voter causes a third and final record copy to be printed, the voter shall be presented with a warning notice that the selections made on screen shall be final and the voter shall see and verify a printout of their vote, but shall not be given additional opportunities to change their vote.
- 45.5.2.9.20 All V-VPAT components shall be capable of integrating into existing State testing and auditing requirements of the voting system.
- 45.5.2.9.21 The V-VPAT component may print a barcode with each record that contains the human readable contents of the paper record and digital signature information. The voting system provider shall include documentation of the barcode type, protocol, and/or description of barcode and the method of reading the barcode as applicable to the voting system.
- 45.5.2.9.22 The V-VPAT component shall be designed such that a voter may not be able to leave the voting area with the paper record.
- 45.5.2.9.23 If used for provisional ballots, the V-VPAT system shall be able to count all of an elector’s votes on a provisional ballot or only Federal and Statewide offices and statewide ballot issues and questions, as provided under §1-8.5-108(2) C.R.S.

- 45.5.2.9.24 The SOS shall keep on file procedures submitted by the voting system provider for how to investigate and resolve malfunctions including, but not limited to: misreporting votes, unreadable paper records, paper jams, low-ink, misfeeds, preventing the V-VPAT from being a single point of failure, recovering votes in the case of malfunction and power failures.

45.6 Testing

45.6.1 Voting system provider demonstration

- 45.6.1.1 The applicant shall demonstrate the exact proposed voting system to the SOS or his or her designee prior to any functional testing. It should be expected that a minimum of 6 hours would be required of the voting system provider to demonstrate and assist with programming of the software as necessary.
- 45.6.1.2 The demonstration period does not have a pre-determined agenda for the voting system provider to follow, however, presentations should be prepared to address and demonstrate with the specific system the following items as it pertains to each area and use within the voting system:
- (a) System Overview
 - (b) Verification of complete system matching EAC certification
 - (c) Ballot Definition Creation
 - (d) Import EML File from Statewide Voter Registration System
 - (e) Printing Ballots on Demand
 - (f) Hardware Diagnostics Testing
 - (g) Programming election media devices for various count methods:
 - Absentee
 - Early Voting
 - Precinct/Poll Place/Vote Center count
 - Provisional
 - Vote Center
 - (h) Sealing and Securing system devices
 - (i) Logic and Accuracy Testing
 - (j) Processing Ballots
 - (k) Accessible use
 - (l) Accumulating Results
 - (m) Post Election Audit
 - (n) Canvass Process Handling
 - (o) Audit Steps and Procedures throughout all processes.
 - (p) Certification of Results (export EML to statewide voter registration system)
 - (q) Troubleshooting.
- 45.6.1.3 The voting system provider shall have access to the room for one hour prior to the start of the demonstration to provide time to setup their voting system.
- 45.6.1.4 A maximum of 3 business days – 24 hours total shall be allowed for the demonstration.
- 45.6.1.5 The demonstration shall be open to representatives of the press and the public to the extent allowable. The SOS may limit the number of representatives from each group to accommodate for space limitations and other considerations.
- 45.6.1.6 The SOS shall post notice of the fact that the demonstration will take place in the designated public place for posting notices for at least seven (7) days before the demonstration. The notice shall indicate the general time frame during which the demonstration may take place and the manner in which members of the public may obtain specific information about the time and place of the test.

45.6.2 Functional Testing

45.6.2.1 Voting system provider requirements for testing

- 45.6.2.1.1 The voting system provider shall submit for testing the specific system configuration that shall be offered to jurisdictions plus the components with which the voting system provider recommends that the system be used.
- 45.6.2.1.2 The voting system provider is not required to be present for the functional testing, but shall provide a point of contact for support.
- 45.6.2.1.3 The voting system provider shall provide a copy of release of software, firmware, utilities, hardware and instructions to install, operate and test the system.
- 45.6.2.1.4 The test shall be performed with test ballots and a counting program, as determined by the SOS.
- 45.6.2.1.5 Functional testing shall be completed within 17 days of the voting system provider Demonstration.

45.6.2.2 SOS requirements for testing

- 45.6.2.2.1 The SOS or the designee shall conduct functional testing on the voting system based on this rule and additional testing procedures determined by the SOS.
- 45.6.2.2.2 The voting system shall receive a pass/fail for each test conducted.
- 45.6.2.2.3 A log of the testing procedure shall be maintained and recorded on file with the SOS. This log shall identify the system and all components by voting system provider Name, make, model, serial number, date tested, test number, test description, notes of test, and results of test. All test environment conditions shall be noted.
- 45.6.2.2.4 All operating steps, the identity and quantity of simulated ballots, annotations of output reports, and observations of performance shall be recorded.
- 45.6.2.2.5 In the event that a deviation to requirements pertaining to the test environment, voting system arrangement and method of operation, the specified test procedure, or the provision of test instrumentation and facilities is required, this deviation shall be recorded in the test log together with a discussion of the reason for the deviation and a statement of the effect of the deviation on the validity of the test procedure.

45.6.2.3 General Testing Procedures and Instructions

- 45.6.2.3.1 Certification tests shall be used to determine compliance with applicable performance standards for the system and its components. The general procedure for these tests shall:
 - (a) Verify, by means of applicant's standard operating procedure, that the device is in a normal condition and status.
 - (b) Establish the standard test environment or the special environment required to perform the test.
 - (c) Invoke all operating modes or conditions necessary to initiate or to establish the performance characteristic to be tested.
 - (d) Measure and record the value or the range of values of the performance characteristic to be tested.
 - (e) Verify all required measurements have been obtained, and that the device is still in a normal condition and status.
- 45.6.2.3.2 All tests shall be conducted as described below in regular election mode. At no point shall testing be conducted in any form of test mode.

- 45.6.2.3.3 Each voting system shall be tested and examined by conducting two mock elections – a Presidential Primary, and a Coordinated election.
- 45.6.2.3.4 Each component of the voting system shall contain provisions for verifying it is functioning correctly and, where operation of the component is dependent upon instructions specific to that election.
- 45.6.2.3.5 Both election scenarios shall feature at least 10 districts (or district types), 20 precincts that shall make up a minimum of 5 unique ballot styles or combinations.
- 45.6.2.3.6 The voting system provider is required to produce a minimum of 500 ballots for each of the two elections. Enough ballots need to be created to conduct the testing of the voting system as defined in this rule. One complete set of ballots will be tested in each of the applicable counter types (or groups) indicated below:
- (a) Poll Place or Vote Center - ballots are flat – no score marks
 - (b) Early Voting – ballots are flat – no score marks
 - (c) Absentee – ballots are scored and folded to fit in standard Colorado Absentee Mailing Envelopes.
 - (d) Provisional – ballots are flat- no score marks
- 45.6.2.3.7 The voting system provider shall pre-mark all ballots used for testing, with the exception of at least 175 blank ballots that shall represent 5 blank ballots for every precinct and precinct-split based on the programming mentioned above. Pre-marked ballots shall also have a predetermined tally that the voting system provider shall provide to the SOS for the testing of the ballots. Markings shall represent all of the testing scenarios as described in this rule.
- 45.6.2.3.8 The voting system provider shall provide 10 ballot marking pens/pencils/markers as defined by their system for marking ballots by the SOS or his or her designee.
- 45.6.2.3.9 Ballots shall be cast and counted in all applicable counter groups (or counter types) as necessary based on the parts included in the voting system. These are at a minimum: Poll Place (or Vote Center), Absentee, Provisional, and Early Voting. Ballots may be run through components 10 or more times depending on components and counter group being tested to achieve a minimum number of ballots cast as follows for each group:
- (a) Polling Place Ballots / OS = 1,500
 - (b) Polling Place Ballots / DRE = 500
 - (c) Vote Center/ OS = 5,000
 - (d) Vote Center / DRE = 500
 - (e) Early Voting / OS = 5,000
 - (f) Early Voting / DRE = 250
 - (g) Absentee = 10,000
 - (h) Provisional = 5,000
- 45.6.2.3.10 Ballot design shall cover the scope of allowable designs for the given system. For example, if a system is capable of producing 11” and 18” ballots, then both ballot styles shall be tested in each of the elections above. If more sizes are available, they shall also be tested.
- 45.6.2.3.11 Ballots shall be printed in applicable languages that apply to the jurisdictions in the State of Colorado – English and Spanish.
- 45.6.2.3.12 Ballots shall include candidates to represent the maximum number of political parties in the State of Colorado, and shall accommodate a minimum of nine political parties, to include:
- (a) Democratic Party of Colorado (DEM)

- (b) Colorado Republican Party (REP)
 - (c) Unaffiliated (UNA)
 - (d) Libertarian Party of Colorado (LIB)
 - (e) Green Party of Colorado (GRN)
 - (f) Colorado Reform Party (CRP)
 - (g) American Constitution Party (ACP)
 - (h) Concerns of People (COP)
 - (i) The Pro Life Party (PRO)
- 45.6.2.3.13 Ballots shall include the following minimum race situations to simulate and test “real world” situations in the State of Colorado:
- (a) Parties for different races.
 - (b) Selection of a pair of candidates (i.e. president and vice president)
 - (c) Does not require a pierced ballot to generate a selection.
 - (d) In a Primary Election, allow a voter to vote for the candidate of the party of his or her choice and for any and all non-partisan candidates and measures, while preventing the voter from voting for a candidate of another party.
 - (e) In a general election, allow a voter to vote for any candidate for any office, in the number of allowed for the office, and to select any measure on the ballot that the candidate is allowed to vote in, regardless of party.
 - (f) A minimum of 20 pair of “yes” and “no” positions for voting on ballot issues.
 - (g) Ability to contain a statement, question or ballot issue of at least 200 words.
- 45.6.2.3.14 Additional tests and procedures may be requested at the discretion of the SOS.

45.6.3 Failure Criteria

- 45.6.3.1 Voting systems shall successfully complete all of the requirements in this rule, and any additional testing that is deemed necessary by the SOS.
- 45.6.3.2 If any malfunction or data error is detected that would be classified as a relevant failure defined by the test procedure, its occurrence and the duration of operating time preceding it shall be recorded for inclusion in the analysis and the test shall be interrupted. If corrective action is taken to restore the devices to a fully operational condition within 8 hours, then the test may be resumed at the point of suspension.

45.7 Temporary Use

- 45.7.1 If a voting system provider has a system that has been evaluated by an ITA, but has not yet been approved for certification through the SOS, the voting system provider or the designated election official may apply to the SOS for temporary approval of the system to be used for up to one year.
- 45.7.2 Upon approval of temporary use, a jurisdiction may use the voting system, or enter into a contract to rent or lease the voting system for a specific election upon receiving written notice from the SOS’s office. At no time shall a jurisdiction enter into a contract to purchase a voting system that’s been approved for temporary use.
- 45.7.3 The SOS shall approve use of a temporarily approved voting system for each election that a jurisdiction would like to use it in.
- 45.7.4 Temporary use does not supersede the certification requirements and/or process, and may be revoked at any time at the discretion of the SOS.

45.8 Periodic Review

- 45.8.1 The SOS shall periodically review the specific voting system in use by Colorado Jurisdictions to determine if the system(s):
 - (a) Are defective, obsolete, or unacceptable for use.
 - (b) Have been modified from certified and approved versions of software.
 - (c) Ensure the escrow code matches with what's stored with the SOS.
- 45.8.2 The SOS shall review a minimum of two randomly selected jurisdictions and voting systems per calendar year at the choosing of the Secretary of State.
- 45.8.3 After such review, certification or temporary approval for use may be withdrawn. Three (3) months notice shall be given prior to withdrawing approval of any voting system unless the SOS shows good cause based on any documentation received for a shorter notice period.
- 45.8.4 All forms notes and documentation from a periodic review shall be kept on file with the SOS.

45.9 Decertification

- 45.9.1 If after any time the SOS has certified a voting system, it is determined that the voting system fails to meet the standards set forth in this Rule, the SOS shall notify any jurisdictions in the State of Colorado and the voting system provider of that particular voting system that the certification of that system for future use and sale in Colorado is to be withdrawn.
- 45.9.2 Certification of a voting system may be revoked and/or suspended at the discretion of the SOS based on information that may be provided after the completion of the initial certification. This information may come from any of the following sources:
 - (a) The Election Assistance Commission (EAC)
 - (b) Independent Testing Authorities (ITA)
 - (c) The Federal Election Commission (FEC)
 - (d) The National Software Reference Library (NSRL)
 - (e) National Association of State Election Directors (NASED)
 - (f) The National Association of Secretaries of State (NASS)
 - (g) Information from any State Elections Department or Secretary of State
 - (h) Information from Colorado County Clerk and Recorder's or their association.
- 45.9.3 Any use of a decertified, or uncertified voting system for any jurisdiction in the State of Colorado shall result in possible loss of future and other existing certifications within the state, at the discretion of the SOS.
- 45.9.4 Pursuant to §1-5-621 C.R.S. the SOS shall hold a public hearing to consider the decision to decertify a voting system.

45.10 Modifications and Re-examination

- 45.10.1 Any field modification, change, or other alteration to a voting system shall require approval or certification before it may be used in any election within the State of Colorado.
- 45.10.2 An applicant may apply to the SOS for the review of a modification of an existing certified system at any time during the year. The voting system is required to go through the certification process. Application, examination, and testing of proposed modifications shall be done according to the same procedures as applications for new items.

45.11 Acceptance Testing by Jurisdictions

- 45.11.1 Whenever an election jurisdiction acquires a new system or modification of an existing system certified by the SOS, the election jurisdiction may perform

- acceptance tests of the system before it may be used to cast or count votes at any election. The voting system shall be operating correctly, pass all tests as directed by the acquiring jurisdiction's project manager or contract negotiator, and shall be identical to the voting system certified by the SOS.
- 45.11.2 The voting system provider shall provide all manuals and training necessary for the proper operation of the system to the jurisdiction, or as indicated by their contract.
- 45.11.3 The election jurisdiction shall perform a series of functional and programming tests that shall test all functions of the voting system at their discretion.
- 45.11.4 The jurisdiction shall coordinate acceptance testing with the SOS's designated agent and complete a Jurisdiction Acceptance Test form provided by the SOS.
- 45.11.5 Acceptance testing is at the discretion of the purchasing jurisdiction, however indication shall be made on the Jurisdiction Acceptance Test form that the purchasing jurisdiction is waiving the opportunity to Acceptance Test the voting system they are purchasing.
- 45.12 Purchases and Contracts
- 45.12.1 Any voting system that has been certified under the procedures of this Rule are eligible for Purchase, Lease, or Rent for use by Jurisdictions within the State of Colorado upon written approval of the contract between the Jurisdiction and the voting system provider by the SOS.
- 45.12.2 At the completion of contract negotiations, a Jurisdiction entering into a contract to purchase, lease or rent a voting system for use in the State of Colorado shall request approval of the contract from the SOS prior to signing the contract.
- 45.12.3 The SOS or his or her designated agent shall approve the contract based on the following minimum criteria.
- (a) The voting system is certified for use within the State.
 - (b) Contract contains training and maintenance costs for Jurisdiction.
 - (c) Contract identifies items contained in the known approved parts list for the voting system, and appears complete with all accessories necessary for successfully conducting an election within the laws and rules of the State for Elections.
 - (d) The voting system and associated components are purchased at or below the following costs:

Item and Description	Maximum Contracted Cost
Ballot Tabulation Only Software	\$48,000.00
Complete Software Package	\$420,000.00
DRE with V-VPAT	\$7,000.00
DRE without V-VPAT	\$5,000.00
DRE Card Activator or Programmer	\$3,000.00
DRE Disabled Devices attachment	\$1,000.00
Extended DRE Warranty Per unit Per Year	\$2,000.00
Precinct/Vote Center Level Optical Scanner	\$7,000.00
High Speed Absentee Scanner	\$120,000.00
Card Reader/Device to complete tabulation	\$7,000.00
Extended Warranty Per scanner unit Per Year	\$10,000.00
Yearly Maintenance	\$108,000.00
Ballot Programming Charges (complete contract cost)	\$65,000.00
Memory Cards or Cartridges (each)	\$1,000.00

- 45.12.3.1 The SOS shall take no more than forty eight (48) hours to review any contract and return a decision to corresponding jurisdiction.
- 45.12.3.2 The SOS may take into consideration exceptions from these requirements based on unusual situations within a jurisdiction that proves necessary to go beyond the requirements of this section of the rule.
- 45.12.3.3 The SOS shall annually review the costs in this table and update as necessary based on market trends, jurisdiction needs, technology changes, and any other factor that may be necessary to allow the voting system provider to continue conducting successful business within the State of Colorado.
- 45.12.3.4 The SOS shall maintain on file a list of all components used and purchased for use. The list shall include at a minimum, the name of the jurisdiction, the date of purchase, the serial number(s) of voting devices and voting systems that was purchased.
- 45.12.3.5 Additionally, the voting system provider shall, through the process of this rule, complete and negotiate with the SOS a purchase price agreement for counties to use when purchasing equipment in the State of Colorado. The pricing agreement shall:
 - (a) Be valid for one year from the date of certification;
 - (b) Require re-negotiations at the end of the pricing agreement period to continue future sales within the state;
 - (c) Allow counties to purchase equipment listed on the agreement at the agreed upon price for the duration or to negotiate directly with the voting system provider for a potentially lower price; and
 - (d) Be inclusive of the best costs the voting system provider is willing to sell all components, including any support, warranty or maintenance costs of the system being certified through this rule;

APPENDIX G

**Colorado Voting Systems Inventory
By County**

County	Hardware Vendor	Hardware Type	Software Vendor	Software Type
Adams	Diebold	AccuVote-OS	Diebold	GEMS 1.17.23
Alamosa	Diebold	AccuVote-OS	N/A **	
Arapahoe	Sequoia	AVC Advantage	Sequoia	WinEDS 2.6 v220
Archuleta	Diebold	AccuVote-OS	N/A **	
Baca	Sequoia	Optech III-P Eagle	Sequoia	EMS/AERO v3.52
Bent	ES&S	Optech III-P Eagle	N/A **	
Boulder	Hart	eSlate 3.1	Hart	eSlate 3.1
Broomfield	Diebold	AccuVote-OS	Diebold	GEMS 1.17.23
Chaffee	ES&S	Optech III-P Eagle	N/A **	
Cheyenne	NONE	Paper Ballots	NONE	Manual Count
Clear Creek	Sequoia	Optech III-P Eagle	Sequoia	EMS v3.52 Memory Packs
Conejos	ES&S	115 OMR *	N/A **	
Costilla	Diebold	AccuVote-OS	N/A **	
Crowley	NONE	Paper Ballots	NONE	Manual Count
Custer	ES&S	Optech III-P Eagle	N/A **	
Delta	Diebold	AccuVote-OS	Diebold	GEMS 1.17.23
Denver	Sequoia	AVC Advantage	Sequoia	WinEDS 2.6 v220
Dolores	NONE	Paper Ballots	NONE	Manual Count
Douglas	Diebold	AccuVote-OS	Diebold	GEMS 1.17.23
Eagle	Diebold	AccuVote-OS	Diebold	GEMS 1.17.23
El Paso	Diebold	AccuVote-OS	Diebold	GEMS 1.17.23
Elbert	Sequoia	Optech III-P Eagle	Sequoia	EMS v3.52 Memory Packs
Fremont	Sequoia	Optech III-P Eagle	Sequoia	AERO v3.52
Garfield	ES&S	650 OMR	N/A **	
Gilpin	ES&S	115 OMR *	N/A **	
Grand	ES&S	115 OMR *	N/A **	
Gunnison	ES&S	115 OMR *	N/A **	
Hinsdale	Diebold	AccuVote-OS	N/A **	
Huerfano	Sequoia	Optech III-P Eagle	Sequoia	EMS v3.52 Memory Packs
Jackson	NONE	Paper Ballots	NONE	Manual Count
Jefferson	ES&S	650 OMR	ES&S	ERM v6.4.2.0
Kiowa	NONE	Paper Ballots	NONE	Manual Count
Kit Carson	ES&S	115 OMR *	N/A **	
La Plata	Diebold	AccuVote-OS	Diebold	GEMS 1.17.22
Lake	ES&S	150 OMR	N/A **	
Larimer	Diebold	AccuVote-OS	Diebold	GEMS 1.17.23
Las Animas	ES&S	115 OMR *	N/A **	
Lincoln	NONE	Paper Ballots	NONE	Manual Count
Logan	ES&S	Optech III-P Eagle	ES&S	EMS/AERO v 3.53
Mesa	ES&S	100 OMR	ES&S	Unity 2.2
Mineral	Diebold	AccuVote-OS	N/A **	
Moffat	ES&S	115 OMR *	N/A **	
Montezuma	Diebold	AccuVote-OS	Diebold	GEMS 1.17.22

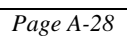
Montrose	Sequoia	Punch Card *	N/A **	
Morgan	ES&S	115 OMR *	N/A **	
Otero	ES&S	115 OMR *	N/A **	
Ouray	Diebold	AccuVote-OS	N/A **	
Park	ES&S	Optech III-P Eagle	N/A **	
Phillips	ES&S	115 OMR *	N/A **	
Pitkin	Diebold	AccuVote-OS	Diebold	GEMS 1.17.23
Prowers	ES&S	150 OMR	N/A **	
Pueblo	Sequoia	Optech III-P Eagle	Sequoia	EMS/AERO v3.52
Rio Blanco	ES&S	115 OMR *	N/A **	
Rio Grande	ES&S	550 OMR	N/A **	
Routt	ES&S	650 OMR	N/A **	
Saguache	Diebold	AccuVote-OS	N/A **	
San Juan	NONE	Paper Ballots	NONE	Manual Count
San Miguel	ES&S	115 OMR *	N/A **	
Sedgwick	ES&S	Optech III-P Eagle	N/A **	
Summit	ES&S	115 OMR *	N/A **	
Teller	Diebold	AccuVote-OS	Diebold	GEMS 1.17.22
Washington	ES&S	115 OMR *	N/A **	
Weld	Diebold	AccuVote-TS R6	Diebold	GEMS 1.17.23
Yuma	Diebold	AccuVote-OS	Diebold	GEMS 1.17.22

* Units are scheduled to be replaced on or before January 1, 2006.

** N/A indicates the Vendor is currently providing Programming Services for the County.

APPENDIX H

Colorado County Seat Map



APPENDIX I

Colorado County Election Statistics for 2004

County	Total number of registered voters (active)	Total number of registered voters (inactive)	Total Counted Ballots	Total Counted Ballots on Election Day	Total Counted Absentee Ballots	Total Early Voting Ballots Counted	Total Provisional Ballots Counted	Total number of poll workers	Number of Precincts	Number of polling places
ADAMS	152,877	68,140	137,366	69,547	41,576	22,368	3,875	1,290	198	189
ALAMOSA	7,180	2,131	6,365	3,119	2,472	741	33	47	9	9
ARAPAHOE	253,403	110,795	234,725	113,757	82,538	31,844	6,586	1,447	366	190
ARCHULETA	6,667	1,889	5,866	2,695	1,856	1,265	50	56	9	8
BACA	2,687	313	2,387	1,360	662	355	10	34	10	7
BENT	2,491	605	2,230	1,015	452	727	36	28	6	3
BROOMFIELD	24,648	6,478	23,329	8,929	9,615	4,457	328	144	39	41
BOULDER	176,224	38,917	161,479	88,880	27,943	42,183	2,473	1,392	229	227
CHAFFEE	12,274	2,296	9,067	4,260	3,045	1,717	45	95	16	16
CHEYENNE	1,308	363	1,152	780	213	159	0	31	7	6
CLEAR CREEK	6,124	1,702	5,721	3,049	1,598	994	80	36	12	10
CONEJOS	4,636	846	3,984	2,299	1,257	414	14	34	11	10
COSTILLA	2,113	578	1,867	1,463	199	189	16	29	9	8
CROWLEY	1,691	436	1,515	1,111	162	230	12	46	6	7
CUSTER	2,754	540	2,485	997	1,470	990	18	17	4	3
DELTA	16,534	3,464	14,245	6,280	4,089	3,657	219	139	21	11
DENVER	304,706	82,399	240,897	129,375	66,190	37,606	7,726	1,712	422	288
DOLORES	1,520	180	1,152	561	591	0	0	27	5	4
DOUGLAS	126,133	33,244	121,600	No Rpt	No Rpt	38,297	2,107	707	131	90
EAGLE	20,791	7,593	18,644	10,671	7,810	No Rpt	163	102	30	14
ELBERT	11,867	3,159	11,364	No Rpt	3,369	2,863	90	50	16	8
EL PASO	270,471	85,100	242,888	144,302	61,742	32,065	4,779	1,730	378	No Rpt
FREMONT	20,684	5,889	18,844	8,399	4,989	5,355	101	137	31	35
GARFIELD	23,557	5,763	20,773	9,524	7,615	3,341	293	171	28	30
GILPIN	3,786	569	3,216	1,715	812	655	34	57	7	6
GRAND	8,417	2,864	7,644	4,062	2,371	1,063	148	74	13	8
GUNNISON	9,731	2,988	8,468	4,461	2,382	1,547	78	48	16	15
HINSDALE	679	102	609	212	345	50	2	4	4	2
HUERFANO	4,560	349	3,502	No Rpt	741	No Rpt	68	No Rpt	12	No Rpt
JACKSON	1,105	180	952	347	464	141	0	20	6	6
JEFFERSON	304,363	70,640	272,790	110,674	112,271	46,264	3,581	1,333	330	323
KIOWA	1,068	108	903	565	172	162	4	33	5	6
KIT CARSON	4,015	1,092	3,557	2,366	917	273	31	56	14	9
LAKE	3,495	1,115	3,003	1,288	500	1,159	56	22	7	1
LA PLATA	28,312	7,740	25,618	12,651	5,299	7,419	249	165	61	30
LARIMER	155,721	43,550	147,112	52,873	47,115	45,326	1,798	626	144	31
LAS ANIMAS	7,563	1,661	6,714	3,877	1,719	1,054	64	76	17	16
LINCOLN	2,644	314	2,359	1,627	530	192	10	82	14	10
LOGAN	9,505	2,165	8919	4,724	2,824	1,297	74	96	17	16
MESA	67,882	18,863	62,341	21773	19,278	20,665	625	381	83	69
MINERAL	694	107	627	323	153	149	2	4	2	1
MOFFAT	6,801	1,925	5,771	2,411	1,520	1,804	36	57	14	5

MONTEZUMA	13,306	3,985	11,085	6,090	2,235	2,717	43	58	12	11
MONTROSE	18,610	3,290	16,910	7596	4795	4286	233	86	23	21
MORGAN	11,348	3,900	10,052	No Rpt	No Rpt	No Rpt	86	67	18	18
OTERO	10,133	2,393	8,357	4,190	4,027	1,326	166	90	19	17
OURAY	3,046	647	2,799	1,521	748	530	20	24	6	4
PARK	10,403	2,313	8,699	4,620	2,610	1,365	104	61	13	15
PHILLIPS	2,490	526	2,361	No Rpt	635	204	30	35	9	9
PITKIN	10,301	2,899	9,282	4,049	1,872	3,298	63	No Rpt	11	10
PROWERS	4,973	1,750	4,809	2,400	1,188	1,208	13	55	14	13
PUEBLO	77,307	15,328	68,371	43,893	13,154	10,275	1,049	547	263	45
RIO BLANCO	3,474	1,000	3,021	1,489	776	744	12	27	6	7
RIO GRANDE	6,151	2,042	5,630	3,765	1,145	667	53	60	16	15
ROUTT	12,828	3,949	11,810	5,860	1,687	4,080	183	84	21	16
SAGUACHE	3,049	973	2,851	1,456	1,069	258	68	33	10	8
SAN JUAN	553	93	501	239	102	158	2	9	2	1
SAN MIGUEL	4,706	2,465	4,030	2,129	709	1,181	11	33	7	6
SEDGWICK	1,503	234	1,401	962	354	79	6	22	6	6
SUMMIT	16,142	5,259	13,864	7,306	2,898	3,497	163	98	18	17
TELLER	13,640	3,078	11,907	5,051	2,240	4,318	298	58	14	6
WASHINGTON	2,800	356	2,556	1,518	831	202	5	22	7	6
WELD	98,692	22,474	89,099	53,472	24,784	10,307	536	517	101	100
YUMA	5,177	1,049	4,591	2,675	1,345	543	28	60	15	14
State Totals	2,404,313	699,155	2,148,036	998,603	600,070	412,280	39,086	14,681	3,370	2,133

APPENDIX J

Preferred Vendor Contract Terms and Conditions

Contract For «ContractPurpose»

Between
«Contractor»
And
The State of Colorado Secretary of State

STATE OF COLORADO

AGREEMENT

DEPARTMENT OF STATE	Contract Routing Number:	
	Other Reference Number:	
	Agency Code:	
Contractor: «Contractor», a «CorpType» Corporation «ContractorAddress» «ContractorCityStZip» Fein: «ContractorEIN»	Fund:	
	Appropriation Code(s):	
Procurement: «ContractPurpose»	GBL:	
	Program:	
	Organization Unit:	
Term: «DateBeginning» through «DateEnd»	Object Code:	
	Amount: FY03	«ContractCap»
	Total	«ContractCap»

CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____, 2005, by and between the State of Colorado for the use and benefit of the Colorado Department of State, a Government Entity, with offices at 1700 Broadway, Suite 250, Denver, CO 80290, hereinafter referred to as (the “**State**” or the “**CDOS**”) and «**Contractor**», hereinafter referred to as (the **Contractor** or “«**ContractorAbv**”).)

Recital

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for encumbering and subsequent payment of this **Contract** in Fund Number «FundNumber», Appropriation Account «Appropriation» and Organization «Organization»;

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies;

WHEREAS, authority exists in the law, and funds, as provided for above, have been budgeted, appropriated, and otherwise made available, and sufficient unencumbered balance thereof remains available for payment;

WHEREAS, pursuant to Colorado Revised Statutes title 24, article 4 (Rule making and Licensing Procedures by State Agencies under the State Administrative Procedure Act), and other statutes, the Colorado Secretary of State has certain duties concerning the administration of laws pertaining to rule making and other matters;

WHEREAS, the Colorado Secretary of State, as the head of the **CDOS**, is charged with the responsibility of publishing or causing to be published the official rules and regulations of Colorado agencies and of the Colorado Register, which publication shall be made in electronic form, and may be made in print form, at the least cost possible to the State. Se CRS 24-4-203(11)(b) House Bill 02-1203;

WHEREAS, «**ContractorAbv**» has represented to the **CDOS** that it possesses all skills and expertise and otherwise is fully qualified and authorized to perform the undertakings required of the **Contractor** contemplated by this **Agreement**;

WHEREAS, the **CDOS** has selected «**ContractorAbv**» as the vendor best qualified to provide the services to be performed pursuant to this **Agreement**;

WHEREAS, the **CDOS** is in possession of a current Certificate of Good Standing pertaining to the **Contractor**, which Certificate is attached hereto as **Exhibit B** and by this reference incorporated herein and made a part hereof;

In consideration of the provisions, terms and conditions of this **Agreement**, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the **Parties** hereby agree as follows:

Definitions

1. “**Agreement**” or “**Contract**” shall mean this **Contract** for «**ContractPurpose**» its terms and conditions, attached **Exhibits**, and any future **Exhibits**, which are incorporated by reference and executed by the **Parties**.
2. “**Exhibits**” shall mean and Statement of Work (SOW(s)), Schedule, Change Order, or other identified document that is incorporated by the terms and conditions of this **Agreement** by reference.
3. “**Statement of Work**” shall mean the statement of **Services/Products** to be provided by «**ContractorAbv**» as outlined in **Exhibit A**.
4. “**Party**” or “**Parties**” shall mean the **CDOS** and/or «**Contractor**».
5. “**Services**” shall mean the services to be performed by «**ContractorAbv**» on behalf of the **CDOS** as set forth in the applicable Exhibit(s).
6. “**Effective Term**” shall mean any time before the **State** asserts, in writing, that it intends to terminate the **Contract** during the Performance Period set forth in the **Contract**.

Scope of the Work

«**ContractorAbv**» shall deliver the supplies described in Exhibit “A”, or
«**ContractorAbv**» shall perform the services described in Exhibit “A”, or
«**ContractorAbv**» shall perform the services in accordance with the RFP, Section 8, attached as Exhibit “A”, and «**ContractorAbv**»’s proposal, chapter 4, attached as Exhibit “B”.

Terms For Services

The following terms shall apply to the Services rendered pursuant to this Contract and Statement of Work:

Order of Precedence

In the event of conflict or inconsistencies between this Contract and its Exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order or priority.

1. **Colorado Special Provisions**, pages to .
2. **Contract**, pages to .
3. **Exhibit ****
4. **Exhibit ****
5. **Exhibit ****
6. **Exhibit ****

7. Exhibit **
8. **The RFP, Exhibit .**
9. «ContractorAbv»'s **proposal, Exhibit .**

Performance Period

The **Contract** shall be effective upon approval by the State Controller, or designee, or on «DateBeginning», whichever is later. The contract performance contemplated herein shall commence as soon as practicable after the effective date of this **Contract** and shall be undertaken and performed in the sequence and manner set forth in the attached [scope of work] [specifications] and extend through «DateEnd».

«ContractorAbv» shall deliver the supplies by ,2005 [90 days after the effective date of the contract.]

1. The **Parties** agree that "time is of the essence," and failure of «ContractorAbv» to complete the **Contract** by the date specified shall be grounds for termination for default, subject to adjustment of extension in the time of performance according to the terms of this contract.
2. The term of this **Contract** shall commence and the effective date hereof shall be «DateBeginning» and the **Contract** shall terminate «DateEnd», unless either «ContractorAbv» or the **CDOS** shall fail to timely execute the **Contract** prior to the said effective date as determined by the date the **Contract** is received for final approval by the State Controller. As prescribed by Section 24-30-202(1), CRS, the effective date shall be the date the **Contract** is approved by the State Controller, and in the event this date is subsequent to the effective date stated in the **Contract**, all provisions relating to time of performance shall be adjusted and payment therefore shall be reduced proportionately to account for the reduction of work and services. It is understood the **CDOS** shall not be liable for payment of work or services nor for costs or expenses incurred by «ContractorAbv» prior to the proper execution and approval of this **Contract**.
3. This **Contract** term and renewal terms are authorized by CRS 24-4-103(11)(b). The **CDOS** may require continued performance for a period of five years for any services at the rates and terms specified in the **Contract**. The **CDOS** may exercise the option by written notice to «ContractorAbv» within 180 days prior to the end of the current contract term in a form substantially equivalent to **Exhibit ****. If the **CDOS** exercises this option, the extended **Contract** will be considered to include this option provision. The total duration of this **Contract**, including the exercise of any options under this clause, shall not exceed *****. If the **CDOS** exercises the option to renew on terms not specified in this **Contract**, the renewal shall be by an approved **Amendment** to the **Contract** only.
4. The **CDOS** may increase the quantity of goods/services described in paragraph/schedule/exhibit at the unit prices established in the **Contract**. The **CDOS** may exercise the option by written notice to «ContractorAbv» within 180 days before the option begins in a form substantially equivalent to **Exhibit ****. Delivery/performance of the goods/services shall continue at the same rate and under the same terms as established in the **Contract**.

Price/Cost

1. The contract price is «ContractCap» («ContractCapWord».)
2. The **CDOS** shall pay «ContractorAbv» at the rates set herein for labor and/or material, not to exceed a ceiling price of «ContractCap» («ContractCapWord».) «ContractorAbv» will successfully complete the services in accordance with the contract requirements within the ceiling prices specified herein.
3. The **CDOS** shall reimburse «ContractorAbv»'s reasonable, allowable costs, as defined herein, not exceeding \$.
5. The **CDOS** may unilaterally increase/decrease the maximum amount payable under this **Contract** based upon the unit prices established in the **Contract** and the schedule of services

- required, as set by the **CDOS**. The **CDOS** may exercise the option by providing a fully executed option to «**ContractorAbv**», in a form substantially equivalent to **Exhibit ****, immediately upon signature of the State Controller or his delegate. Performance of the service shall continue at the same rate and under the same terms as established in the contract.
6. The **CDOS** may allocate more or less funds available on this **Contract** using a Funding Letter substantially equivalent to **Exhibit **** and bearing the approval of the State Controller or his designee. The Funding letter shall not be deemed valid until it shall have been approved by the State Controller or his designee.

Payment Terms

Unless otherwise provided, and where appropriate, the **CDOS** shall establish billing procedures and pay «**ContractorAbv**» the contract price or rate for services performed and accepted or supplies delivered and accepted pursuant to the terms of this **Contract**, based on the submission of statements on forms and in a manner prescribed by the **CDOS**. [Progress payments shall be made monthly based on invoices submitted to and in a form prescribed by the **CDOS** detailing the amount of costs incurred, but 10% of the amount of costs incurred shall be withheld by the **CDOS** until final acceptance of the services or supplies under the contract.]

The **CDOS** shall pay reasonable, allocable, allowable costs of performance. Unless otherwise provided, and where appropriate:

1. Payments under this **Contract** shall be upon the completion and acceptance of work (**Payment Milestones**) in the payment schedule attached as **Exhibit C**. Upon completion of a **Payment Milestone**, «**ContractorAbv**» shall submit an invoice to the Chief Information Officer (CIO) at the **CDOS**. The CIO and Director of Licensing shall determine if the services/work under the milestone shall be accepted or rejected and recommend that payment be made or withheld accordingly. Acceptance of work by the **CDOS** for payment under a milestone shall be in writing only. To be considered for payment, billings for payment pursuant to this **Contract** must be received within 60 days after the period for which payment is being requested and final billings on the **Contract** must be received by the **CDOS** within 60 days after the end of the contract term.
2. Payments pursuant to this **Contract** shall be made as earned, in whole or in part, from available funds encumbered for the purchase of the described services. The liability of the **CDOS**, at any time, for such payments shall be limited to the amount remaining of such encumbered funds.
3. In the event this **Contract** is terminated, final payment to «**ContractorAbv**» may be withheld at the discretion of the **CDOS** until completion of a final audit.
4. Incorrect payments to «**ContractorAbv**» due to omission, error, fraud, or defalcation shall be recovered from «**ContractorAbv**» by deduction from subsequent payment under this **Contract** or other contracts between the **State** and «**ContractorAbv**», or by the **State** as a debt due to the **State**. «**ContractorAbv**» shall submit requests for reimbursement monthly, stating in the invoice a detailed description of the amounts of services performed, the dates of performance, and amounts and description of reimbursable expenses. [The State procurement rules governing allowability and allocability of cost shall govern.] [The Uniform Administrative Requirements for Grants and Cooperative agreements to the State and Local Governments (the "Common Rule"), and applicable OMB Circulars cited therein, shall govern the allowability and allocability of costs under this **Contract**.] The **State** [and Federal Government] reserves the right to audit «**ContractorAbv**»'s books and records for a period of three years after contract expiration or termination in order to validate the allowability of costs paid under this **Contract**, and any costs not allowable under the State procurement rules be reimbursed by «**ContractorAbv**», or offset against current obligations due by the **State** to «**ContractorAbv**», at the **State's** election.

Legal Authority

«**ContractorAbv**» warrants that it possesses the legal authority to enter into this **Contract** and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this **Contract** and to bind «**ContractorAbv**» to its terms. The person(s) executing this **Contract** on behalf of «**ContractorAbv**» warrant(s) that such person(s) have full authorization to execute this **Contract**.

Rights in Data, Documents, and Computer Software

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by «**ContractorAbv**» in the performance of its obligations under this **Contract** shall be the exclusive property of the **CDOS** and all such materials shall be delivered to the **CDOS** by «**ContractorAbv**» upon completion, termination, or cancellation of this **Contract**. «**ContractorAbv**» may, at its own expense, keep copies of all its writings for its personal files. «**ContractorAbv**» shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of «**ContractorAbv**»'s obligation under this **Contract** without the prior written consent of the **CDOS**; provided, however, that «**ContractorAbv**» shall be allowed to use non-confidential materials for writing samples in pursuit of the work. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.

Inspections and Acceptance (Services)

The **CDOS** reserves the right to inspect services provided under this **Contract** at all reasonable times and places during the term of the **Contract**. "Services" as used in this clause includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform to contract requirements, the **CDOS** may require «**ContractorAbv**» to perform the services again in conformity with contract requirements, with no additional payment. When defects in the quality or quantity of services cannot be corrected by re-performance, the **CDOS** may:

1. require «**ContractorAbv**» to take necessary action to ensure that the future performance conforms to contract requirements; and
2. equitably reduce the payment due «**ContractorAbv**» to reflect the reduced value of the services performed.

These remedies in no way limit the remedies available to the **CDOS** in the termination provisions of this **Contract**, or remedies otherwise available by law.

Remedies

In addition to any other remedies provided for in this **Contract**, and without limiting its remedies otherwise available by law, the **CDOS** may exercise the following remedial actions if «**ContractorAbv**» substantially fails to satisfy or perform the duties and obligation in this **Contract**. Substantial failure to satisfy the duties and obligations shall be defined to mean significant insufficient, incorrect or improper performance, activities, or inaction by «**ContractorAbv**». These remedial actions are as follow:

1. Suspend «**ContractorAbv**»'s performance pending necessary corrective action as specified by the **CDOS** without «**ContractorAbv**»'s entitlement to adjustment in price/cost or schedule; and /or
2. Withhold payment to «**ContractorAbv**» until the necessary services or corrections in performance are satisfactorily completed; and/or
3. Request the removal from work on the **Contract** of employees or agents of «**ContractorAbv**» whom the **CDOS** justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract the **CDOS** deems to be contrary to the public interest or not in the best interest of the **State**; and/or

4. Deny payment for those services or obligations which have not been performed and which due to circumstances caused by «**ContractorAbv**» cannot be performed, or if performed would be of no value to the **State**. Denial of the amount of payment must be reasonably related to the value of work or performance lost to the **State**.
5. Terminate the **Contract** for default.

The above remedies are cumulative and the **CDOS**, in its sole discretion, may exercise any or all of them individually or simultaneously.

Termination for Convenience

CDOS may terminate this **Contract** at any time the **CDOS** determines that the purposes of the distribution of **State** moneys under the **Contract** would no longer be served by completion of the project. The **CDOS** shall effect such termination by giving written notice of termination to «**ContractorAbv**» and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies surveys, drawings, maps, models, photographs, and reports or other material prepared by «**ContractorAbv**» under this **Contract** shall, at the option of the **CDOS**, become its property, and «**ContractorAbv**» shall be entitled to receive just and equitable compensation for any satisfactory services and supplies delivered.

If «**ContractorAbv**» is terminated by the **CDOS** as provided herein, the «**ContractorAbv**» will be paid in an amount which bears the same ratio to the total compensation as services satisfactorily performed bear to the total services of «**ContractorAbv**» covered by this **Contract**, less payments of compensation previously made, provided, however, that if less than sixty percent (60%) of the services covered by this **Contract** have been performed upon the effective date of such termination, «**ContractorAbv**» shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this **Contract**) incurred by «**ContractorAbv**» during the contract period which are directly attributable to the uncompleted portion of the services covered by this **Contract**. In no event shall reimbursement under this clause exceed the contract amount. If this **Contract** is terminated for cause, or due to the fault of «**ContractorAbv**», the Termination for Cause or Default provision shall apply.

Termination for Convenience

1. **Termination:** The procurement officer may, when the interests of the purchasing agency so require, terminate this **Contract** in whole or in part, for the convenience of the agency. The procurement officer shall give written notice of the termination to «**ContractorAbv**» specifying the part of the contract terminated and when termination becomes effective. This in no way implies that the purchasing agency has breached the **Contract** by exercise of the Termination for Convenience Clause.
2. «**ContractorAbv**»'s **Obligations:** «**ContractorAbv**» shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination «**ContractorAbv**» will stop work to the extent specified. «**ContractorAbv**» shall also terminate outstanding orders and subcontracts as they relate to the terminated work. «**ContractorAbv**» shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The procurement officer may direct «**ContractorAbv**»'s right, title, and interest under terminated orders or subcontracts to the purchasing agency. «**ContractorAbv**» must still complete and deliver to the purchasing agent the work not terminated by the Notice of Termination and may incur obligations as are necessary to do so.
3. **Compensation:**
 - a. «**ContractorAbv**» shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data bearing on such claim. If «**ContractorAbv**» fails to file a termination claim within 90 days from the

effective date of termination, the procurement officer may pay «**ContractorAbv**», it at all, an amount set in accordance with **subparagraph c** of this Section.

- b. The procurement officer and «**ContractorAbv**» may agree to a settlement provided «**ContractorAbv**» has filed a termination claim supported by cost or pricing data and that the settlement does not exceed the total contract price plus settlement costs, reduced by payments previously made by the purchasing agency, the proceeds of any sales of supplies and manufactured materials made under agreement, and the contract price of the work not terminated.
- c. Absent complete agreement, under **subparagraph b** of this Section, the procurement officer shall pay «**ContractorAbv**» the following amounts, provided the payments agreed to under **subparagraph b** shall not duplicate payments under this subparagraph:
 - (1) Contract prices for supplies or services accepted under the **Contract**.
 - (2) Costs incurred in preparing to perform the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid to or to be paid for accepted supplies or services; provided, however, that if it appears that «**ContractorAbv**» would have sustained a loss if the entire contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss.
 - (3) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to «**ContractorAbv**»'s obligations paragraph of the clause. These costs must not include costs paid in accordance with **subparagraph b** of the Section.
 - (4) The reasonable settlement costs of «**ContractorAbv**» including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the terminated portion of this **Contract**.
 - (5) The total sum to be paid «**ContractorAbv**» under this **subparagraph c** shall not exceed the total contract price plus settlement costs, reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under **subparagraph b**, and the contract price of work not terminated.
- d. Cost claimed or agreed to under this section shall be in accordance with applicable sections of the Colorado State Procurement Code.

Termination for Default/Cause

1. If, through any cause, «**ContractorAbv**» shall fail to fulfill, in a timely and proper manner, its obligations under this **Contract**, or if «**ContractorAbv**» shall violate any of the covenants, agreements, or stipulations of this **Contract**, the **CDOS** shall thereupon have the right to terminate this **Contract** for cause by giving written notice to «**ContractorAbv**» of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by «**ContractorAbv**» under this **Contract** shall, at the option of the **CDOS** become its property, and «**ContractorAbv**» shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. «**ContractorAbv**» shall be obligated to return any payment advanced under the provisions of this **Contract**.
2. Notwithstanding the above, «**ContractorAbv**» shall not be relieved of liability to the **CDOS** for any damages sustained by the **CDOS** by virtue of any breach of the **Contract** by «**ContractorAbv**», and the **CDOS** may withhold any payment to «**ContractorAbv**» for the purposes of mitigating its damages until such time as the exact amount of damages due to the **State** from «**ContractorAbv**» is determined.

3. If after such termination it is determined, for any reason, that «**ContractorAbv**» was not in default, or that «**ContractorAbv**»'s action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.

Termination for Default/Cause

1. **Default.** If «**ContractorAbv**» refuses or fails to timely perform any of the provisions of this **Contract**, with such diligence as will ensure its completion with the time specified in this **Contract**, the procurement officer may notify «**ContractorAbv**» in writing of the non-performance, and if not promptly corrected within the time specified, such officer may terminate «**ContractorAbv**»'s right to proceed with the **Contract** or such part of the **Contract** as to which there has been delay or a failure to properly perform. «**ContractorAbv**» shall continue performance of the **Contract** to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere.
2. «**ContractorAbv**»'s **Duties.** Notwithstanding termination of the **Contract** and subject to any directions from the procurement office, «**ContractorAbv**» shall take timely, reasonable and necessary action to protect and preserve property in the possession of «**ContractorAbv**» in which the procurement officer has an interest.
3. **Compensation.** Payment for completed products and services accepted by the procurement officer shall be at the contract price. The procurement officer may withhold amounts due to «**ContractorAbv**» as the procurement officer deems to be necessary to protect the purchasing agency against loss because of outstanding liens or claims of former lien holders and to reimburse the purchasing agency for the excess costs incurred in procuring similar goods and services.
4. **Excuse for Nonperformance or Delayed Performance.** «**ContractorAbv**» shall not be in default by reason of any failure in performance of this **Contract** in accordance with its terms if such failure arises out of acts of God; acts of the public enemy; acts of the State and any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. Upon request of «**ContractorAbv**», the procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, «**ContractorAbv**»'s progress and performance would have met the terms of the **Contract**, the delivery schedule shall be revised accordingly, subject to the rights of the purchasing agency.
5. **Erroneous Termination for Default.** If after notice of termination «**ContractorAbv**»'s right to proceed under the provisions of this clause, it is determined for any reason that «**ContractorAbv**» was not in default under the provisions of this clause, or that the delay was excusable, the rights and obligations of the **Parties** shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause.

Insurance

1. «**ContractorAbv**» shall obtain, and maintain at all times during the term of this **Agreement**, insurance in the following kinds and amounts:
 - a. Standard Worker's Compensation and Employer Liability as required by State statute, including occupational disease, covering all employees on or off the work site, acting within the course and scope of their employment.
 - b. General, Personal Injury, and Automobile Liability (including bodily injury, personal injury, and property damage) minimum coverage:
 - (1) Combined single limit of \$600,000.00 (Six hundred thousand dollars and no cents) if written on an occurrence basis.

- (2) Any aggregate limit will not be less than \$1,000,000.00. (One million dollars and no cents.)
- (3) Combined single limit of \$600,000.00 (Six hundred thousand dollars and no cents) for policies written on a claims-made basis. The policy shall include an endorsement, certificate, or other evidence that coverage extends two years beyond the performance period of the **Contract**.
- (4) If any aggregate limits are reduced below \$600,000.00 (six hundred thousand dollars and no cents) because of claims made or paid during the required policy period, «**ContractorAbv**» shall immediately obtain additional insurance to restore the full aggregate limit and furnish a certificate or other document showing compliance with this provision.
- (5) The State of Colorado shall be named as additional insured on all liability policies.
- (6) The insurance shall include provisions preventing cancellation without 60 days prior notice to the **State** by certified mail.
- (7) «**ContractorAbv**» shall provide certificates showing adequate insurance coverage to the State within 7 working days of award or contract execution, unless otherwise provided.
- (8) If «**ContractorAbv**» is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS 24-10-101, et seq., as amended ("Act"), «**ContractorAbv**» shall at all times during the term of this **Contract** maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. Upon request by the **State**, «**ContractorAbv**» shall show proof of such insurance.

Federal Funding

This **Contract** is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. The **Parties** hereto expressly recognize that «**ContractorAbv**» is to be paid reimbursed, or otherwise compensated with funds provided to the **State** by the United States Government under ????????? for the purpose of contracting for the **Services** provided for herein, and therefore, «**ContractorAbv**» expressly understands and agrees that all its rights, demands, and claims to compensation arising under this **Contract** are contingent upon receipt of such funds by the **State**. In the event that such funds or any part thereof are not received by the **State**, the **State** may immediately terminate this **Contract** without liability, including liability for termination costs.

Grant Assurances

If this **Contract** involves the expenditure of federal funds, «**ContractorAbv**» shall at all times during the execution of this **Contract** strictly adhere to and comply with all applicable federal laws and regulations, as they currently exist and may hereafter be amended, which are incorporated herein by this reference as terms and conditions of this **Contract**.

«**ContractorAbv**» shall also require compliance with these statutes and regulations in subgrant agreements permitted under this **Contract**. The federal laws and regulations include:

1. The "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Rule), at 49 Code of Federal Regulations, Part 18.

[The following six assurances are required in Federal grant contracts pursuant to the "Common Rule" for Uniform Administrative Requirements]

2. Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees).
3. The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and subgrants for construction or repair).
4. The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation. This act requires that

- all laborers and mechanics employed by contractors or sub-contractors that work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).
5. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).
 6. Standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
 7. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).
 8. Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.
 9. The Hatch Act (5 USC 1501-1508) and Public Law 95-454, Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.
 10. USC 6101 et seq., 42 USC 2000d, 29 USC 794, and implementing regulation, 45 C.F.R. Part 80 et seq. These acts require that no person shall, on the grounds of race, color, national origin, age, or handicap, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or part, by federal funds;
 11. The Americans with Disabilities Act (Public Law 101-336; 42 USC 12101, 12102, 12111-12117, 12131-12134, 12141-12150, 12161-12165, 12181-12189, 12201-12213, 47 USC 225 and 47 USC 611.
 12. The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of this contract.)
 13. The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).
 14. The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et seq. and its implementing regulation, 45 C.F.R. Part 91;
 15. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

Certifications

Within ten (10) days after execution of this **Contract**, «**ContractorAbv**» shall provide, comply with, and if applicable, execute the certifications set forth in the **Attachments** as follow:

Exhibit C - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary

Exclusion - Lower Tier Covered Transaction

Exhibit D - Certification of Compliance with the Requirements of the Federal Drug-Free

Workplace Act of 1988

Exhibit E - Certification Regarding Lobbying

Exhibit F - Tobacco Free Certification

For the term of this **Contract**, «**ContractorAbv**» further certifies that systems, controls, and procedures shall be implemented to prevent improper use of public funds. No **State** or other public funds payable under this **Contract** shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. If the **CDOS** determines that «**ContractorAbv**» violates this paragraph, the **CDOS** may exercise any remedy available at law or equity or under this **Contract**, including, without limitation, immediate termination of the **Contract** and any remedy consistent with United States copyright laws or applicable licensing restrictions.

Representatives and Notice

1. **Representatives.** For the purpose of this **Contract**, the individuals identified below are hereby-designated representatives of the respective **Parties**. Either **Party** may from time to time designate in writing new or substitute representatives.

For the State:

For «**ContractorAbv**»:

Ginette Dennis

Secretary of State

2. **Authority.** With respect to the representative of the **State**, such individual shall have the authority to inspect and reject services, approve invoices for payment, and act otherwise for the **State**, except with respect to the execution of formal amendments to or termination of this **Agreement** pursuant to paragraphs _____ and _____.
3. **Notices.** All notices required to be given by the **Parties** hereunder shall be hand delivered or given by certified or registered mail to the individuals at the addresses set forth below. Either **Party** may from time to time designate in writing substitute addresses or persons to whom such notices shall be sent.

For the State:

For «**ContractorAbv**»:

Licenses, Permits, and Computer User Agreement

«**ContractorAbv**» certifies that, at the time of entering into this **Contract**, it has currently in effect all necessary licenses, certifications, approvals, insurance, permits, etc. required to properly perform the services and/or deliver the supplies covered by this **Contract**. «**ContractorAbv**» warrants that it will maintain all necessary licenses, certifications, approvals, insurance, permits, etc. required to properly perform this **Contract**, without reimbursement by the **State** or other adjustment in contract price. Additionally, all employees of «**ContractorAbv**» performing services under this **Agreement** shall hold the required licenses or certification, if any, to perform their responsibilities. «**ContractorAbv**» further certifies that, if it is a foreign corporation or other entity, it

currently has obtained and shall maintain any applicable certificate of authority to do business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of necessary licenses, certifications, approvals, insurance, permits, etc. required for «ContractorAbv» to properly perform this **Contract**, shall be grounds for termination of this contract by the **State** for default.

«ContractorAbv», its employees, agents and subcontractors hereby agree to execute the CDOS Computer User Agreement prior to the use of any part of the computing system at the CDOS

Intellectual Property Indemnification

1. «ContractorAbv» shall defend, at its sole expense, any claim(s) or suit(s) brought against the **State** alleging that the use by the **State** of any product(s), or any part thereof, supplied by «ContractorAbv» under this **Agreement** constitutes infringement of any patent, copyright, trademark, or other proprietary rights, provided that the **State** gives «ContractorAbv» written notice within twenty (20) days of receipt by the **State** of such notice of such claim or suit, provides assistance and cooperation to «ContractorAbv» in connection with such action, and «ContractorAbv» shall consult the **State** regarding such defense and the **State** may, at its discretion and expense, participate in any defense. Should the **State** not choose to participate, «ContractorAbv» shall keep the **State** advised of any settlement or defense.
2. «ContractorAbv» shall have liability for all such claims or suits, except as expressly provided herein, and shall indemnify the **State** for all liability incurred by the **State** as a result of such infringement. «ContractorAbv» shall pay all reasonable out-of-pocket costs and expenses, and damages finally awarded by a court of competent jurisdiction, awarded or agreed to by «ContractorAbv» regarding such claims or suits.

Patent Rights-Federal Funds

If any invention, improvement, or discovery of «ContractorAbv» or any of its subcontractors or subgrantees is conceived or first actually reduced to practice in the course of or under this contract work, and if such is patentable, «ContractorAbv» shall notify the **State** immediately and provide a detailed written report. The rights and responsibilities of «ContractorAbv», third party contractors, and the **State** with respect to such invention, improvement, or discovery will be determined in accordance with applicable federal laws and regulations in existence on the date of execution of this **Contract** which define contractor title, right to elect title, federal government "march in" rights, and the scope of the federal government's right to a nonexclusive, irrevocable, paid-up license to use the subject invention for its own. «ContractorAbv»/grantee shall include the requirements of this paragraph in its third party contracts for the performance of the work under this **Contract**.

Rights in Data and Copyright- Federal Reserved Rights

Except for its own internal use, «ContractorAbv» shall not publish or reproduce any data/information, in whole or part, that is recorded in any form or medium whatsoever and that is delivered or specified to be delivered under this **Contract**, nor may it authorize or permit others to do so, without the written consent of the federal government, through the **State**, until such time as the federal government may have released such data/information to the public.

As authorized by 49 CFR 18.34, the federal government, through the **State**, reserves a royalty free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize the **State** and others to use: 1) any work developed under this **Contract** or a resulting third party contract irrespective of whether or it is copyrighted; and 2) any rights of copyright to which «ContractorAbv»/grantee, sub-recipient, or third party contractor purchases ownership with federal assistance.

Confidentiality

1. Unless expressly authorized to do so in writing by the **State**, «ContractorAbv» shall not disclose to any third-party any proprietary or confidential information relating to the **State** or any confidential information held by the **State** on behalf of member of the public; such as social security numbers.

2. Confidentiality of Records.
 - a. During the performance of this **Contract**, «**ContractorAbv**» may be given access to information (in hardcopy or electronic form) that relates to the **State's** past, present, and future, research and development, "business" activities, products, services, technical knowledge or protected information that has been acquired by the **State**, such as social security numbers. «**ContractorAbv**»'s use of confidential information shall adhere to policies and procedures as follow:
 - (1) The confidential information may be used by «**ContractorAbv**» only in connection with the performance of this **Contract**; and
 - (2) «**ContractorAbv**» agrees to exercise reasonable care in protecting the confidentiality of the information, received from the **State**, in the same manner that it protects the confidentiality of it's own proprietary and confidential information; and
 - (3) Access to the confidential information shall be restricted to «**ContractorAbv**»'s personnel, and approved subcontractors, unless expressly authorized (in writing) by the other **State**; and
 - (4) «**ContractorAbv**» agrees to notify and advise all of its employees, agents, consultants, licensees, or subcontractors in writing of the above requirements and of the possible penalties and fines that may be imposed for any violation of these requirements; and
 - (5) Confidential information shall not be copied, reproduced, or electronically captured by «**ContractorAbv**» without the **State's** express authorization (written consent); such consent shall not be unreasonably withheld, conditioned or delayed; and
 - (6) All confidential and proprietary information made available to «**ContractorAbv**», including copies, shall be returned or destroyed upon the **State's** request. «**ContractorAbv**» may retain copies of the **State's** confidential information when required for compliance with the **State's** record keeping or quality assurance requirements.
 - b. Any breach of confidentiality by «**ContractorAbv**», or third-party agents of «**ContractorAbv**», shall constitute good cause for the **State** to cancel this **Contract**, without liability to the **State**.
 - c. The **State's** waiver of an alleged breach of confidentiality by «**ContractorAbv**», or third-party agents of «**ContractorAbv**», does not constitute a waiver of any subsequent breach by the **State**, or third-party agents of **State**.
 - d. If «**ContractorAbv**» receives a subpoena or other valid request, issued under the auspices of an administrative or judicial authority, demanding the **State's** confidential information, «**ContractorAbv**» shall notify the **State** within five (5) business days of such receipt.

Maintenance of Records

By **** **, ****, in conjunction with the **State**, «**ContractorAbv**», shall develop processes for comprehensive, secure records retention and safekeeping for all records. These processes, protocols and safeguards shall be implemented in the [applicable department or agency], and in any other division or office that maintains such records at the **CDOS**. «**ContractorAbv**» shall also separately maintain records relating to the employment of the «**ContractorAbv**».

Oversight management of the agreed-upon processes, protocols and safekeeping shall be the responsibility of «**ContractorAbv**» during the performance of this **Contract**. However, «**ContractorAbv**» shall have the authority to delegate day-to-day responsibility for records retention, maintenance and security to identified state employees, while maintaining management oversight. Moreover, it shall be the responsibility of the **State** to initially provide «**ContractorAbv**» with appropriate storage space and security arrangements, as the **Parties** agree upon, on the premises of the **State** at 1560 Broadway, Denver, CO. at all times, all of the records described herein shall remain the sole property of the **State**, except for duplicate copies of records produced by the **State** for «**ContractorAbv**».

When this **Contract** is completed, or is terminated for any reason, it shall continue to be the responsibility of «**ContractorAbv**» to maintain and secure any record pertaining to the **Services** by «**ContractorAbv**» employee, off **State** property, for a period of no less than three (3) years. «**ContractorAbv**»'s records shall include, but not be limited to, monthly billings and any time sheets, travel documents, billings, receipts, tax documents, insurance documents, social security documents, and letters or memoranda relating in any manner to **Services** provided to the **State** under this **Contract**.

Audit, Inspection of Records, and Monitoring

«**ContractorAbv**» shall permit the **State**, federal government, or any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe «**ContractorAbv**»'s records during the term of this **Contract** and for a period of three (3) years following termination of this **Contract** or final payment hereunder, whichever is later, to assure compliance with the terms hereof, or to evaluate «**ContractorAbv**»'s performance hereunder. «**ContractorAbv**» shall also permit these same described entities to monitor all activities conducted by «**ContractorAbv**» pursuant to the terms of this **Contract**. As the monitoring agency may in its sole discretion deem necessary or appropriate, such monitoring may consist of internal evaluation procedures, examination of program data, special analyses, on-site check, or any other reasonable procedure.

Federal Examination of Records Clause

«**ContractorAbv**», and its subcontractors and subgrantees, will give the **State**, the awarding Federal Agency, and the Comptroller General of the United States, through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the award and **Contract**; and will establish a proper accounting system in accordance with generally accepted accounting standards.

Federal Audit Provisions

The Office of Management and Budgets (OMB) Circular No. A-133 Audits of States, Local Governments, and Non-Profit Organizations defines audit requirements under the Single Audit Act of 1996 (Public Law 104-156). All state and local governments and non-profit organizations expending \$300,000 or more from all sources (direct or from pass-through entities) are required to comply with the provisions of Circular No. A-133. The Circular also requires pass-through entities to monitor the activities of subrecipients and ensure that subrecipients meet the audit requirements. To identify its pass-through responsibilities, the State of Colorado requires all

subrecipients to notify the **State** when expected or actual expenditures of federal assistance from all sources equal or exceed \$300,000.

Assignment and Successors

«**ContractorAbv**» agrees not to assign rights or delegate duties under this **Contract** or subcontract any part of the performance required under the **Contract** without the express, written consent of the **State** [which shall not be unreasonably withheld]. Except as herein otherwise provided, this **Agreement** shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This provision shall not be construed to prohibit assignments of the right to payment to the extent permitted by section 4-9-318, CRS, provided that written notice of assignment adequate to identify the rights assigned is received by the controller for the agency, department, or institution executing this **Contract**. Such assignment shall not be deemed valid until receipt by such controller- as distinguished from the State Controller- and «**ContractorAbv**» assumes the risk that such written notice of assignment is received by the controller for the agency, department, or institution involved.

Changes

Changes made in this **Contract** or in the **Statement of Work**, shall be by written amendemtn only, approved as required by law.

1. **A Written Order.** By a written order, at any time, and without notice to any surety, the procurement officer may, subject to all appropriate adjustments, make changes within the general scope of this **Contract** in any one or more of the following:
 - a. [drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the purchasing agency in accordance therewith] [description of services to be performed];
 - b. method of shipment or packing [time of performance of services]; or
 - c. place of delivery or performance of services.
2. **Adjustment of Price or Time or Performance.** If any such change order increases or decreases «**ContractorAbv**»'s cost of, or the time required for, performance of any part of the work under this **Contract**, an adjustment shall be made and the **Contract** modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this **Contract**.
3. **Failure of the Parties to Agree to an Adjustment.** Failure of the **Parties** to agree to an adjustment shall not excuse «**ContractorAbv**» from proceeding with the **Contract** as changed, provided that the purchasing agency promptly and duly makes such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, «**ContractorAbv**» shall not be deemed to have prejudiced any claim for additional compensation, or an extension of the time for completion.
4. **Time Period for Claim.** Within 30 days after receipt of a written change order under the Change Order paragraph of this clause, unless such period is extended by the procurement officer in writing, «**ContractorAbv**» shall file notice of intent to assert a claim for any adjustment.
5. **Claim Barred After Final Payment.** No claim by «**ContractorAbv**» for an adjustment hereunder shall be allowed if asserted after final payment under this **Contract**.
6. Bilateral changes within the general scope of the **Contract**, as defined, as defined in Paragraph ** above, may be executed using the change order letter process described in this paragraph and a form substantially equivalent to the sample change order letter attached as **Exhibit **** for any of the following reasons.

- a. Where the agreed changes to the specifications result in an adjustment to the price, delivery schedule, or time of the performance.
 - b. Where the agreed changes result in no adjustment to the price, delivery schedule, or time of performance. The change order shall contain a mutual release of claims for adjustment of price, schedules, or time of performance.
 - c. Where the changes to the **Contract** are priced based on the unit prices to be paid for the goods and/or services established in the **Contract** or **Attachment ****.
 - d. Where the changes to the **Contract** are priced equal to or less than established catalog generally extended to the public or on prices or rates set by law or regulation.
- Other bilateral modifications not within the terms of this paragraph must be executed by formal amendment to the **Contract**, approved in accordance with state law.

Price Adjustments

1. **Price Adjustment Method.** Any adjustment in contract price pursuant to the application of a clause in this **Contract** shall be made in one or more of the following ways:
 - a. By agreement on a fixed-price adjustment;
 - b. By unit prices specified in the **Contract**;
 - c. In such other manner as the **Parties** may mutually agree; or
 - d. In the absence of agreement between the **Parties**, by a unilateral determination by the procurement officer of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee.
2. **Submission of Cost or Pricing Data.** «**ContractorAbv**» shall provide cost or pricing data for any price adjustment subject to the provisions of the Cost or Pricing Data Section of the Colorado State Procurement Rules.

Force Majeure

Neither «**ContractorAbv**» nor the **CDOS** shall be liable to the other for any delay in, or failure of performance of, any covenant or promise contained in this **Contract**, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by “force majeure.” As used in this **Contract** “force majeure” means acts of God; acts of the public enemy; acts of the State and any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather.

Third Party Beneficiaries

It is expressly understood and agreed that the enforcement of the terms and conditions of this **Contract** and all rights of action relating to such enforcement, shall be strictly reserved to the **State** and «**ContractorAbv**». Nothing contained in this **Agreement** shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the **State** and «**ContractorAbv**» that any such person or entity, other than the **State** or «**ContractorAbv**», receiving services or benefits under this **Agreement** shall be deemed an incidental beneficiary only.

Governmental Immunity

Notwithstanding any other provision of this **Contract** to the contrary, no term or condition of this **Contract** shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, *et. seq.*, CRS, as now or hereafter amended. The **Parties** understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of Section 24-10-101, *et. seq.*, CRS, as now or hereafter amended and the risk management statutes, Section 24-30-1501, *et. seq.*, CRS, as now or hereafter amended.

Severability

To the extent that this Contract may be executed and performance of the obligations of the Parties may be accomplished within the intent of the Contract, the terms of this Contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

Waiver

The waiver of any breach of term, provision, or requirement of this **Contract** shall not be construed or deemed as waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision, or requirement.

Entire Understanding

This **Contract** is intended as the complete integration of all understandings between the **Parties**. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal rules.

Survival of Certain Contract Terms

Notwithstanding anything herein to the contrary, the **Parties** understand and agree that all terms and conditions of this **Contract** and the exhibits and attachments hereto which may require continued performance, compliance, or effect beyond the termination date of the **Contract** shall survive such termination date and shall be enforceable by the **State** as provided herein in the event of such failure to perform or comply by «**ContractorAbv**».

Modification and Amendment

This Contract is subject to such modifications as may be required by changes in Federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this Contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this Contract shall be effective unless agreed to in writing by both Parties in an amendment to this Contract that is properly executed and approved in accordance with applicable law.

Applicable Law and Choice of Law

«**ContractorAbv**» shall at all times during the execution of this **Contract** strictly adhere to, and comply with, all applicable Federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended, which are incorporated herein by this reference as terms and conditions of this **Contract**. The **Parties** agree that the laws of the State of Colorado shall be controlling in any action or any dispute related to performance of this **Contract**.

Authority

With respect to the representative of the **State**, such individual shall have the authority to oversee the contract performance, inspect and reject services, approve invoices for payment, and act otherwise for the **State**, except with respect to the execution of formal amendments to or termination of this.

For the State:

Ginette Dennis
Secretary of State

For «**Contractor**»

Name
Title

Venue

The **Parties** agree that venue for any action related to performance of this **Contract** shall be in the City and County of Denver, Colorado.

Special Provisions

The Special Provisions below, are hereby expressly incorporated into this contract as if fully set forth in each amendment.

Paste Appropriate Special Provisions Here!!

APPENDIX K

Vendor Proposal Pricing Tables



TABLE "A"

INSTRUCTIONS TO VENDORS

State of Colorado

Request For Proposal (RFP) Cost Proposal for STATE EQUIPMENT

SOLICITATION NUMBER:	DEADLINE / DUE DATE AND TIME:
CDOS-HAVA-2005-001	November 4 th , 2005 2:00 PM MOUNTAIN TIME
PURCHASING CONTACT:	PHONE NUMBER:
John Gardner	303-894-2200 x-6318

Instructions for Vendors:

1. Vendors are to complete all fields in all tabs to have cost proposal be considered a complete package.
2. Indicated costs are to be considered by the Vendor to be the Best and Final Cost.
3. Vendors are to indicate items that are not applicable to their solution with an "N/A" in the data field instead of leaving the item blank.
4. Costs for items are to be independent of quantity purchased. If Vendor has a fee structure based on an incremental value, then the Vendor should assume the highest value for best savings to either the state or the counties. Refer to Appendices G, H, and specifications listed within the RFP for sizing estimates.
5. The attached worksheets are to be considered for costs directly associated with the CDOS purchase of equipment and/or services from the Vendor as indicated in the RFP. These costs are not to be used by the Counties when purchasing equipment.
6. Based on the purchasing agreement set forth in the RFP it is the intent of the state to own one license master copy of the Election Management Software from the Vendor to use as the "base" program from which it will support the counties that have purchased DRE's, Scanners, and other portion(s) of the Voting System to allow them to tabulate results.
7. A Description field has been allowed for each item. The Vendor is to use this field to provide as much detailed information and additional specifications as necessary to assist the reader in the explanation of what role the device will play in the overall voting system picture.
8. The vendor is to provide a unit cost for each item.
9. The vendor is to specify any costs incurred for the first year maintenance or warranty per each individual items.
10. The vendor is to specify costs for additional maintenance or warranty for periods beyond the first year period.

TABLE A1

HARDWARE COSTS FOR STATE PURCHASES:

Manufacturer	Make and Model	Version #: (i.e. Firmware):	Description and additional details:	Unit Cost:	1st year Warranty Cost (per unit):	Additional Warranty Cost (per unit):
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DRE's:

DRE - with V-VPAT						
DRE - Non V-VPAT						
DRE - Card Activator or Programmer						
Disabled Equipment Addition						
Ballot Marking Systems						
Removable memory devices						

Scanners:

Precinct Level Ballot Scanner						
VoteCenter Level Ballot Scanner						
Medium Speed (or duty) Scanner						
High Speed (or duty) Scanner						
card reader (for tabulation)						
Removable memory devices						

Desktop Computer Items: (include specifications)

Server						
Workstation						
Laptops						
Printer(s)						

Accessories (list if for DRE, Scanner, or Workstation):

Additional Memory Cards or Devices							
Voter Cards (voter access, or ballot access)							
Ballot Boxes							
Transportation Cases							
Voting Booths							
Locks and Seals							
Power Cords (if not included above)							
Storage Racks							
Storage Cases							
Power or Charging Devices							
Cartridges							
Cables							
Connectors							
Modems and/or Modem Banks							
Results Accumulating Devices (other than PC)							
Electronic Poll Book Devices							
Programmers for Voter Cards, or Polling Location:							
Networking Hardware							

Other Hardware (list as many as needed):

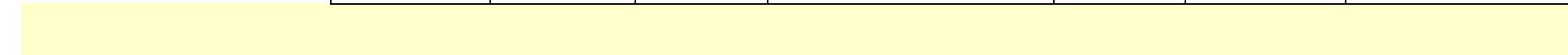


TABLE A2

SOFTWARE COSTS FOR STATE PURCHASES:

Manufacturer	Make and Model	Version #: (i.e. Firmware):	Description and additional details:	Unit Cost:	1st year Maintenance Cost:	Additional years' Maintenance Cost (per unit):
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Election Management Software (EMS)

Package(s):

Complete EMS Package						
Report Writing Tool						

**DRE Software (if not
included with EMS):**

DRE Operating System Package						
DRE Election Management Software						

**Desktop Computer
Items:**

Operating System						
Virus Protection Software						
Necessary Utilities						

Other Software Costs:

TABLE A3

ADDITIONAL ITEMS AND SERVICES COSTS FOR STATE PURCHASES:

	Manufacturer	Version #: (I.e. Firmware):	Description and additional details:	Yearly Cost (per unit):	One Time Costs:
Maintenance:					
I. Scanners:					
a. Precinct Level Ballot Scanner					
b. VoteCenter Level Ballot Scanner					
c. Medium Speed (or duty) Scanner					
d. High Speed (or duty) Scanner					
II. DRE's:					
a. DRE - with V-VPAT					
b. DRE - Non V-VPAT					
c. Accessible DRE - with V-VPAT					
d. Accessible DRE - Non V-VPAT					
Support Services:					
Help Desk Support (non election)					
Help Desk Support (during election period)					
On-Site Election Day support					
Training Costs:					
Training Cost per day on-site for one person:					
Training cost per day off-site for one person:					

Additional Hourly Training costs:					
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Hourly Labor Costs:

Hourly Costs for additional training:					
Hourly Costs for in-house technicians					
Hourly Costs for Field Technicians					
Hourly costs for programming changes					

Other Services or Additional Items
Cost:

TABLE A4

ADDITIONAL COSTS TO STATE FOR REQUIREMENTS:

Description of solution to provide:

Proposed date solution will be provided:
--

Cost of Solution:

Requirement Number:

[illegible]



TABLE "B"

INSTRUCTIONS TO VENDORS

State of Colorado

Request For Proposal (RFP) Cost Proposal for COUNTY EQUIPMENT

SOLICITATION NUMBER:	DEADLINE / DUE DATE AND TIME:
CDOS-HAVA-2005-001	November 4 th , 2005 2:00 PM MOUNTAIN TIME
PURCHASING CONTACT:	PHONE NUMBER:
John Gardner	303-894-2200 x-6318

Instructions for Vendors:

1. Vendors are to complete all fields in all tabs to have cost proposal be considered a complete package.
2. Indicated costs are to be considered by the Vendor to be the Best and Final Cost.
3. Vendors are to indicate items that are not applicable to their solution with an "N/A" in the data field instead of leaving the item blank.
4. Costs for items are to be independent of quantity purchased. If Vendor has a fee structure based on an incremental value, then the Vendor should assume the highest value for best savings to either the state or the counties. Refer to Appendices G, H, and specifications listed within the RFP for sizing estimates.
5. The attached worksheets are to be considered for costs directly associated with the County purchase of equipment and/or services from the Vendor as indicated in the RFP. These costs are not to be used by the State when purchasing equipment.
6. A Description field has been allowed for each item. The Vendor is to use this field to provide as much detailed information and additional specifications as necessary to assist the reader in the explanation of what role the device will play in the overall voting system picture.
7. The vendor is to provide a unit cost for each item.
8. The vendor is to specify any costs incurred for the first year maintenance or warranty per each individual items.
9. The vendor is to specify costs for additional maintenance or warranty for periods beyond the first year period.

TABLE B1

HARDWARE COSTS FOR COUNTY PURCHASES:

Manufacturer	Make and Model	Version #: (i.e. Firmware):	Description and additional details:	Unit Cost:	1st year Warranty Cost (per unit):	Additional Warranty Cost (per unit):
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DRE's:

DRE - with V-VPAT						
DRE - Non V-VPAT						
DRE - Card Activator or Programmer						
Disabled Equipment Addition						
Ballot Marking Systems						
Removable memory devices						

Scanners:

Precinct Level Ballot Scanner						
VoteCenter Level Ballot Scanner						
Medium Speed (or duty) Scanner						
High Speed (or duty) Scanner						
card reader (for tabulation)						
Removable memory devices						

Desktop Computer Items: (include specifications)

Server						
Workstation						
Laptops						
Printer(s)						

Accessories (list if for DRE, Scanner, or Workstation):

Additional Memory Cards or Devices							
Voter Cards (voter access, or ballot access)							
Ballot Boxes							
Transportation Cases							
Voting Booths							
Locks and Seals							
Power Cords (if not included above)							
Storage Racks							
Storage Cases							
Power or Charging Devices							
Cartridges							
Cables							
Connectors							
Modems and/or Modem Banks							
Results Accumulating Devices (other than PC)							
Electronic Poll Book Devices							
Programmers for Voter Cards, or Polling Location:							
Networking Hardware							

Other Hardware (list as many as needed):

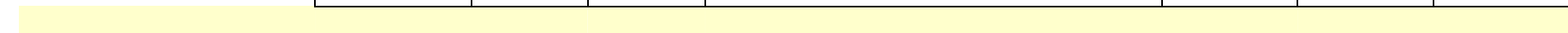


TABLE B2

SOFTWARE COSTS FOR COUNTY PURCHASES:

Manufacturer	Make and Model	Version #: (i.e. Firmware):	Description and additional details:	Unit Cost:	1st year Maintenance Cost:	Additional years' Maintenance Cost (per unit):
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Election Management Software (EMS) Package(s):

I. Ballot Creation/origination Software Module:						
a. Active Voter Count less than or equal to 10,000						
b. Active Reg. Voters less than or equal to 25,000						
c. Active Reg. Voters less than or equal to 50,000						
d. Active Reg. Voters less than or equal to 100,000						
e. Active Reg. Voters less than or equal to 200,000						
f. Active Reg. Voters less than or equal to 400,000						

II. Tabulation (only) Software Module:						
a. Active Voter Count less than or equal to 10,000						
b. Active Reg. Voters less than or equal to 25,000						
c. Active Reg. Voters less than or equal to 50,000						
d. Active Reg. Voters less than or equal to 100,000						
e. Active Reg. Voters less than or equal to 200,000						
f. Active Reg. Voters less than or equal to 400,000						

III. Complete EMS Package							
a. Active Voter Count less than or equal to 10,000							
b. Active Reg. Voters less than or equal to 25,000							
c. Active Reg. Voters less than or equal to 50,000							
d. Active Reg. Voters less than or equal to 100,000							
e. Active Reg. Voters less than or equal to 200,000							
f. Active Reg. Voters less than or equal to 400,000							

Report Writing Software							
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DRE Software (if not included with EMS):

DRE Operating System Package							
DRE Election Management Software							

Desktop Computer Items:

Operating System							
Virus Protection Software							
Necessary Utilities							

Other Software Cost (list):

TABLE B3

ADDITIONAL ITEMS AND SERVICES COSTS FOR COUNTY PURCHASES:

	Manufacturer	Version #: (I.e. Firmware):	Description and additional details:	Yearly Cost (per unit):	One Time Costs:
Maintenance:					
I. Scanners:					
a. Precinct Level Ballot Scanner					
b. VoteCenter Level Ballot Scanner					
c. Medium Speed (or duty) Scanner					
d. High Speed (or duty) Scanner					
II. DRE's:					
a. DRE - with V-VPAT					
b. DRE - Non V-VPAT					
c. Accessible DRE - with V-VPAT					
d. Accessible DRE - Non V-VPAT					
Support Services:					
Help Desk Support (non election)					
Help Desk Support (during election period)					
On-Site Election Day support					
Training Costs:					
Training Cost per day on-site for one person:					
Training cost per day off-site for one person:					
Additional Hourly Training costs:					

Hourly Labor Costs:

Hourly Costs for additional training:					
Hourly Costs for in-house technicians					
Hourly Costs for Field Technicians					
Hourly costs for programming changes					

Other Services or Additional Items Cost:
